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April 23, 2004

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APR 23 2004

PUBLIC SERVICE  
COMMISSION

**VIA HAND DELIVERY**

Hon. Thomas M. Dorman  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
P. O. Box 615  
Frankfort, KY 40601

***Re: In the matter of Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications, LLC on Behalf of Its Operating Subsidiaries, Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended; Case No. 2004-00044 before the Public Service Commission of the Commonwealth of Kentucky***

Dear Mr. Dorman:

Enclosed is an original and eleven (11) copies of Joint Petitioners' Reply to BellSouth's Response to Joint Petitioners' Motion for Procedural Schedule for filing in the above-styled case.

Please file stamp the additional copy and return to me in the self-addressed, postage prepaid envelope furnished herewith.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

**RECEIVED**

APR 23 2004

PUBLIC SERVICE  
COMMISSION

*In the Matter of:*

NEWSOUTH COMMUNICATIONS CORP., )  
NUVOX COMMUNICATIONS, INC., )  
KMC TELECOM V, INC., )  
KMC TELECOM III LLC, AND )  
XSPEDIUS COMMUNICATIONS, LLC )  
on Behalf of its Operating Subsidiaries )  
XSPEDIUS MANAGEMENT CO. )  
SWITCHED SERVICES, LLC )  
XSPEDIUS MANAGEMENT CO. OF LEXINGTON, LLC, )  
and )  
XSPEDIUS MANAGEMENT CO. OF LOUISVILLE, LLC )  
)  
Of an Interconnection Agreement with BellSouth )  
Telecommunications, Inc. Pursuant to Section )  
252(b) of the Communications Act of 1923, as )  
Amended )

Case No.  
2004-00044

**JOINT PETITIONERS' REPLY TO  
BELLSOUTH'S RESPONSE TO  
JOINT PETITIONERS' MOTION FOR PROCEDURAL SCHEDULE**

Joint Petitioners respectfully submit this brief reply to BellSouth's Response in Opposition to Petitioners' Motion for Procedural Schedule.

Joint Petitioners acknowledge BellSouth's scheduling conflict and propose that, in lieu of adopting the hearing dates proposed by Petitioners, that the Commission establish a hearing date that is agreeable to the Commission and each of the parties, including BellSouth.

With respect to the other aspects of BellSouth's Opposition, BellSouth uses the occasion to renew its efforts to prejudice the Joint Petitioners by stripping the individual Petitioners of the right to meet their obligation to present testimony in support of the common CLEC position presented for each and every issue. Once again, BellSouth presents the Commission with a false

choice between four weeks of separate hearings or two weeks of hearings, if severance is not granted. Obviously, two weeks of hearings would be a significantly smaller drain on the resources of the Commission and all parties involved. Moreover, Joint Petitioners highly doubt that two weeks would be necessary. Notably, BellSouth and the Joint Petitioners jointly agreed to (and the North Carolina Commission scheduled) a 3 day hearing in North Carolina – with full knowledge that the North Carolina Commission rejected BellSouth’s request to hamstring the ability of each Petitioner to file testimony.

Significantly, the North Carolina Commission has required the Joint Petitioners to file testimony that looks very much like the testimony filed in Alabama (which BellSouth provided a copy to this Commission without noting that it was lopping-off the exhibit that accompanied it<sup>1</sup>). This consolidated format was proposed by Joint Petitioners as a means of eliminating the concerns raised by BellSouth in its alternative motion to impose procedural restrictions with respect to the testimony that would be filed by the Joint Petitioners. Where the Petitioners could say precisely the same thing, they did so and each adopted that testimony. However, each Petitioner also retained the ability to testify separately on behalf of their company in direct and rebuttal testimony, as well as on cross examination. BellSouth attempts to make too much out of limited extent to which the Joint Petitioners did present company specific facts in their Alabama direct testimony. As already has been explained repeatedly to BellSouth, it was not Joint Petitioners’ intention to saddle the record with every company-specific fact known. Joint Petitioners prepared their testimony knowing that they could present additional company-specific facts, if necessary, in rebuttal testimony and in responses to cross examination. Further, it is anticipated that more company specific facts will be incorporated as the testimony is refined and developed for subsequent filings in different states (Alabama was first). BellSouth’s complaint

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<sup>1</sup> A copy of that exhibit is attached hereto.

that Joint Petitioners' testimony is at the same time too short (not enough company-specific facts) and too long (it covers the testimony of 4 witnesses<sup>2</sup> on approximately 90 issues and spans approximately 240 pages, including issue statements boxes and the backgrounds of the witnesses), collapses under its own weight.

Notably, the Alabama Commission also embraced the filing of Joint Petitioners' testimony in the easy to read and easy to follow format proposed by the Joint Petitioners. BellSouth, now apparently fears that the Joint Petitioners have made it too easy by eliminating redundancy and unnecessary comparisons of multiple pieces of testimony.

With respect to whether testimony is filed in the traditional manner wherein the petitioning party files direct testimony, the respondent files reply testimony and the petitioning party then files rebuttal testimony, Joint Petitioners note that it was BellSouth that refused to be the Petitioner in this case. Where it was a burden to BellSouth, it refused to go first. However, Joint Petitioners submit that they are prepared to accept simultaneous direct and reply testimony filings, in exchange for the withdrawal or rejection of BellSouth's attempts to impose restrictions on the manner in which Joint Petitioners present their testimony. In short, Joint Petitioners would get to file testimony as they propose and BellSouth would get to file testimony as it proposes.<sup>3</sup> The Commission would get the benefit of receiving all the testimony the parties deem necessary for it to make its decision with respect to the issues presented before it.

Finally, Joint Petitioners provide additional information regarding how other states are handling BellSouth's Motion to Sever or Impose Procedural Restrictions. It remains the case that no state has granted BellSouth's motion to sever. Each state that has ruled to date has

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<sup>2</sup> Joint Petitioners anticipate using 6 witnesses in Kentucky (2 NuVox witnesses did not file testimony in Alabama, as NuVox does not operate in that state).

<sup>3</sup> BellSouth already has rejected this compromise offer in another jurisdiction. Accordingly, Joint Petitioners have not bothered to secure another rejection from BellSouth.

denied it. Those states include Alabama, Georgia, North Carolina and South Carolina. The Georgia and South Carolina Commissions have not issued written orders; the other orders are on file. In Louisiana, the Staff Recommendation is to deny the motion to sever. In Florida, BellSouth has agreed to withdraw its Motion to Sever or Impose Procedural Restrictions. This Commission, along with those in Tennessee and Mississippi have yet to rule on BellSouth's motion to sever.

With respect to the alternative procedural restrictions BellSouth seeks to impose, Joint Petitioners have objected to only one of the three and that is the one that would place company witnesses in the unprecedented position of having to testify on behalf of companies that do not employ them (as well as their own). Obviously, Joint Petitioners would be unduly prejudiced by grant of such a restriction, as some companies would have to forfeit their right to present testimony on issues of great importance to them. The Commission also could be denied the benefit of knowing all pertinent facts because the elected witness would not necessarily know facts specific to the other Petitioners. Already, the Alabama, Georgia and North Carolina Commissions have declined to force the Joint Petitioners (and themselves) into that bind. Notably, the Georgia Commission approved a Staff recommendation that will allow Joint Petitioners to use witness panels for each issue (the use of these panels should expedite BellSouth's cross examination).

In Florida, BellSouth voluntarily agreed to withdraw its Motion to Sever or Impose Procedural Restrictions as part of a Staff guided resolution of the issues raised that will not result in severance or grant of BellSouth's request to force company witnesses speak on behalf of companies that do not employ them. Instead, the Joint Petitioners agreed to identify a lead witness on those issues where they are comfortable doing so (it is anticipated that this could be

done on a majority of the issues; each Petitioner, however, would still have its own witness submitting testimony – in many cases, by adopting testimony presented by the so-called lead witness – on each issue). The ability to provide company-specific testimony would not be restricted. In no case, will Petitioners be forced into the unprecedented and legally complicated predicament of having to “nominate” a witness from one company to submit testimony and speak on behalf of all four (as may be the case in Louisiana). A Florida Commission Staff Recommendation and Commission Order memorializing this arrangement has not yet been issued.

WHEREFORE, Joint Petitioners requests that the resolve their Motion for Procedural Schedule and BellSouth’s Motion to Sever or Impose Procedural Restrictions as set forth herein and in prior submissions by Joint Petitioners.

Respectfully submitted,



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1200 19th, N.W., Suite 500  
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Fax: (202) 955-9792  
E-mail: jheitmann@kelleydrye.com

*Counsel to the Joint Petitioners*

**CERTIFICATE OF SERVICE**

It is hereby certified that the foregoing was served by mailing a copy of the same by First Class United States Mail, postage prepaid, to the following, this 23rd day of April, 2004.

J. Phillip Carver  
BellSouth Telecommunications, Inc.  
1155 Peachtree Street  
Atlanta, GA 30309-3610

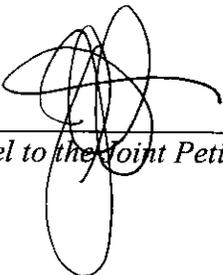
Jake E. Jennings  
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Lawrenceville, GA 30043

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Suite 5000  
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1755 N. Brown Road  
Lawrenceville, GA 30043

  
\_\_\_\_\_  
*Counsel to the Joint Petitioners*

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COMMISSION

## ATTACHMENT A

### DISPUTED CONTRACT LANGUAGE BY ISSUE

#### GENERAL TERMS AND CONDITIONS

*Issue No. G-1 [Section 1.6]: What should be the effective date of future rate impacting amendments?*

1.6

[REDACTED] **Effective Date** is defined as the date that the Agreement is effective and shall be ten (10) calendar days after the date of the last signature executing the Agreement. Non rate impacting future amendments will be effective as of the date of the last signature executing the amendment or as otherwise ordered in a FCC or Commission order or rule. Future amendments incorporating Commission-approved rates will be effective **as of the effective date of the Commission order or as otherwise ordered in a FCC or Commission order or rule, if an amendment is requested within thirty (30) calendar days of that date. Otherwise, such amendments shall be effective ten (10) calendar days after the date of the last signature executing the amendment or, or thirty (30) calendar days after request, whichever date is earlier.**

[BellSouth Version] **Effective Date** is defined as the date that the Agreement is effective and shall be ten (10) calendar days after the date of the last signature executing the Agreement. Non rate impacting future amendments will be effective as of the date of the last signature executing the amendment or as otherwise ordered in a FCC or Commission order or rule. Future amendments incorporating rates changes will be effective **ten (10) calendar days after the date of the last signature executing the amendment or as otherwise ordered in a FCC or Commission order or rule.**

*Issue No. G-2 [Section 1.7]: How should "End User" be defined?*

1.7 [REDACTED] **End User means the customer of a Party.**

[BellSouth Version] **End User means the ultimate user of the Telecommunications Service.**

*Issue No. G-3 [Section 10.2]: Should the Agreement contain a general provision providing that BellSouth shall take financial responsibility for its own actions in causing, or contributing to unbillable or uncollectible CLEC revenue in addition to specific provisions set forth in Attachments 3 and 7?*

10.2 [REDACTED] **BellSouth shall take financial responsibility for its own actions in causing or contributing to unbillable or uncollectible <<customer\_short\_name>> revenue.**

[BellSouth Version] **No Section.**

*Issue No. G-4 [Section 10.4.1]: What should be the limitation on each Party's liability in circumstances other than gross negligence or willful misconduct?*

10.4.1

**[REDACTED]** Except for any indemnification obligations of the Parties hereunder, **with respect to any claim or suit, whether based in contract, tort or any other theory of legal liability, by either Party, any End User of either Party, or by any other person or entity, for damages associated with any of the services provided pursuant to or in connection with this Agreement, including but not limited to the installation, provision, preemption, termination, maintenance, repair or restoration of service, and, in any event, subject to the provisions of the remainder of this Section, each Party's liability shall be limited to and shall not exceed in aggregate amount over the entire term hereof an amount equal to seven-and-one half percent (7.5%) of the aggregate fees, charges or other amounts paid or payable to such Party for any and all services provided or to be provided by such Party pursuant to this Agreement as of the Day immediately preceding the date of assertion or filing of the applicable claim or suit; provided that the foregoing provisions shall not be deemed or construed as (A) imposing or allowing for any liability of either Party for (x) indirect, special or consequential damages as otherwise excluded pursuant to Section 10.4.4 below or (y) any other amount or nature of damages to the extent resulting directly and proximately from the claiming Party's failure to act at all relevant times in a commercially reasonable manner in compliance with such Party's duties of mitigation with respect to all applicable damages or (B) limiting either Party's right to recover appropriate refund(s) of or rebate(s) or credit(s) for fees, charges or other amounts paid at Agreement rates for services not performed or provided or otherwise failing to comply (with applicable refund, rebate or credit amounts measured by the diminution in value of services reasonably resulting from such noncompliance) with the applicable terms and conditions of this Agreement. Notwithstanding the foregoing, claims or suits for damages by either Party, any End User of either Party, or by any other person or entity, to the extent resulting from the gross negligence or willful misconduct of the other Party, shall not be subject to the foregoing limitation of liability.**

**[BellSouth Version]** Except for any indemnification obligations of the Parties hereunder, **and except in cases of the provisioning Party's gross negligence or willful misconduct, each Party's liability to the other for any loss, cost, claim, injury, liability or expense, including reasonable attorneys' fees relating to or arising out of any negligent act or omission in its performance of this Agreement, whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.**



*Issue No. G-5 [Section 10.4.2]: Should each Party be required to include specific liability-eliminating terms in all of its tariffs and End User contracts (past, present and future), and, to the extent that a Party does not or is unable to do so, should it be obligated to indemnify the other Party for liabilities not eliminated?*

10.4.2 [REDACTED] No Section.

**[BellSouth Version] Limitations in Tariffs.** A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to the End User or third party for (i) any loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such loss and (ii) consequential damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such loss.

*Issue No. G-6 [Section 10.4.4]: Should limitation on liability for indirect, incidental or consequential damages be construed to preclude liability for claims or suits for damages incurred by CLEC's (or BellSouth's) End Users to the extent such damages result directly and in a reasonably foreseeable manner from BellSouth's (or CLEC's) performance obligations set forth in the Agreement?*

10.4.4

**[REDACTED]** Nothing in this Section 10 shall limit a Party's obligation to indemnify or hold harmless the other Party set forth elsewhere in this Agreement. Except in cases of gross negligence or willful or intentional misconduct, under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages **provided that neither the foregoing nor any other provision of this Section 10 shall be deemed or construed as imposing any limitation on the liability of a Party for claims or suits for damages incurred by End Users of the other Party or by such other Party vis-à-vis its End Users to the extent such damages result directly and in a reasonably foreseeable manner from the first Party's performance of services hereunder and were not and are not directly and proximately caused by or the result of such Party's failure to act at all relevant times in a commercially reasonable manner in compliance with such Party's duties of mitigation with respect to such damage.** In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the services or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

**[BellSouth Version]** Nothing in this Section 10 shall limit a Party's obligation to indemnify or hold harmless the other Party set forth elsewhere in this Agreement. Except in cases of gross negligence or willful or intentional misconduct, under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the services or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

*Issue No. G-7 [Section 10.5]: What should the indemnification obligations of the parties be under this Agreement?*

10.5

**[REDACTED] Indemnification for Certain Claims.** The Party providing services hereunder, its Affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim for libel, slander or invasion of privacy arising from the content of the receiving Party's own communications. The Party receiving services hereunder, its Affiliates and its parent company, shall be indemnified, defended and held harmless by the Party providing services hereunder against any claim, loss or damage to the extent arising from (1) the providing Party's failure to abide by Applicable Law, or (2) injuries or damages arising out of or in connection with this Agreement to the extent caused by the providing Party's negligence, gross negligence or willful misconduct.

**[BellSouth Version] Indemnification for Certain Claims.** The Party providing services hereunder, its Affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the receiving Party's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving Party's own communications, or (2) any claim, loss or damage claimed by the End User of the Party receiving services arising from such company's use or reliance on the providing Party's services, actions, duties, or obligations arising out of this Agreement.

*Issue No. G-8 [Section 11.1]: What language should be included in the Agreement regarding a Party's use of the other Party's name, service marks, logos and trademarks?*

11.1 [REDACTED] No License. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. **A Party's use of the other Party's name, service marks and trademarks shall be in accordance with Applicable Law.**

[BellSouth Version] No License. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. **The Parties are strictly prohibited from any use, including but not limited to, in the selling, marketing, promoting or advertising of telecommunications services, of any name, service mark, logo or trademark (collectively, the "Marks") of the Other Party. The Marks include those Marks owned directly by a Party or its Affiliate(s) and those Marks that a Party has a legal and valid license to use. Notwithstanding the foregoing, <<customer\_short\_name>> may make factual references to the BellSouth name as necessary to respond to direct inquiries from customers or potential customers regarding the source of the underlying services or the identity of repair technicians. The Parties acknowledge that they are separate and distinct and that each provides a separate and distinct service and agree that neither Party may, expressly or impliedly, state, advertise or market that it is or offers the same service as the other Party or engage in any other activity that may result in a likelihood of confusion between its own service and the service of the Other Party.**

*Issue No. G-9 [Section 13.1]: Should a court of law be included among the venues at which a Party may seek dispute resolution under the Agreement?*

13.1

[REDACTED] Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, either Party may petition the FCC, the Commission **or a court of law** for a resolution of the dispute. Either Party may seek expedited resolution by the Commission, and may request that resolution occur in no event later than sixty (60) calendar days from the date of submission of such dispute. The other Party will not object to such expedited resolution of a dispute. If the FCC or Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each party shall pay half of the fees and expenses so incurred to the extent the FCC or the Commission requires the Parties to bear such fees and expenses. Each Party reserves any rights it may have to seek judicial review of any ruling made by the FCC, the Commission **or a court of law** concerning this Agreement. Until the dispute is finally resolved, each Party shall continue to perform its obligations under this Agreement, unless the issue as to how or whether there is an obligation to perform is the basis of the dispute, and shall continue to provide all services and payments as prior to the dispute provided however, that neither Party shall be required to act in any unlawful fashion.

[BellSouth Version] Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, if a Party desires to pursue such dispute, such Party shall petition the FCC or the Commission for a resolution of the dispute. Either Party may seek expedited resolution by the Commission, and may request that resolution occur in no event later than sixty (60) calendar days from the date of submission of such dispute. The other Party will not object to such expedited resolution of a dispute. If the FCC or Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each party shall pay half of the fees and expenses so incurred to the extent the FCC or the Commission requires the Parties to bear such fees and expenses. Each Party reserves any rights it may have to seek judicial review of any ruling made by the FCC or the Commission concerning this Agreement. Until the dispute is finally resolved, each Party shall continue to perform its obligations under this Agreement, unless the issue as to how or whether there is an obligation to perform is the basis of the dispute, and shall continue to provide all services and payments as prior to the dispute provided however, that neither Party shall be required to act in any unlawful fashion.

*Issue No. G-12 [Section 32.2]: Should the Agreement explicitly state that all existing state and federal laws, rules, regulations, and decisions apply unless otherwise specifically agreed to by the Parties?*

32.2

**[REDACTED] Nothing in this Agreement shall be construed to limit a Party's rights or exempt a Party from obligations under Applicable Law, except in such cases where the Parties have explicitly agreed to a limitation or exemption. Silence shall not be construed to be such a limitation or exemption with respect to any aspect, no matter how discrete, of Applicable Law.**

**[BellSouth Version] This Agreement is intended to memorialize the Parties' mutual agreement with respect to their obligations under the Act and applicable FCC and Commission rules and orders. Any reference to the Parties complying with applicable FCC and Commission orders is not intended to expand on the obligations of the Parties as set forth herein.**

*Issue No. G-13 [Section 32.3]: How should the Parties deal with non-negotiated deviations from the state Commission-approved rates in the rate sheets attached to the Agreement?*

32.3

**[REDACTED]** The rates contained in this Agreement shall be in compliance with Applicable Law. Where a Commission has adopted rates for network elements or services provided under this Agreement, as of the Effective Date, it is the intent of the Parties that the rate exhibits incorporated into this Agreement will be those rates. Errors in rate sheets will be corrected by retroactive true-up to the Effective Date within thirty (30) calendar days.

**[BellSouth Version]** Where a Commission has adopted rates for network elements or services provided under this Agreement, as of the Effective Date, it is the intent of the Parties that the rate exhibits incorporated into this Agreement will be those rates, unless otherwise negotiated by the Parties. Upon request of either Party, errors in rate sheets will be corrected prospectively by amendments to this Agreement.

*Issue No. G-14 [Section 34.2]: Can either Party require, as a prerequisite to performance of its obligations under the Agreement, that the other Party adhere to any requirement other than those expressly stipulated in the Agreement or mandated by Applicable Law?*

34.2

**[REDACTED]** Neither Party shall, as a condition or prerequisite to such Party's performance of its obligations as otherwise provided herein, impose or insist upon the other Party's (or any of its End Users') adherence to any requirement or obligation other than as expressly stipulated in this Agreement or as otherwise mandated by Applicable Law.

**[BellSouth Version]** No Section.

*Issue No. G-15 [Section 45.2]: If BellSouth changes a provision of one or more of its Guides that would cause CLEC to incur a material cost or expense to implement the change, should the CLEC notify BellSouth, in writing, if it does not agree to the change?*

45.2

[REDACTED] Guides. The Parties acknowledge that certain provisions of this Agreement reference certain BellSouth documents and publications (collectively referred to herein as the "Guides"). All Guides referred to in this Agreement, are incorporated herein and made a part hereof by reference. To the extent that there is a conflict between a provision of a Guide and a provision of this Agreement, the provision of this Agreement shall prevail. BellSouth may, from time to time during the term hereof, change or alter said Guides (including replacing a Guide entirely with a successor Guide with a different name). The Parties agree that if the change or alteration was made to BellSouth's OSS interface Guides as a result of the Change Control Process (CCP), a revision to a generally accepted and implemented industry standard or guideline (e.g. Ordering Billing Forum (OBF), Telcordia guidelines, etc.), or other legal requirement directly affecting the Guides provided, if such legal requirement would be subject to the change of law provision in these General Terms and Conditions, the change to the Guide would not be applicable until this Agreement is amended to reflect the update to the Guide, or if <<customer\_short\_name>> agrees to such change or alteration, any such change or alteration shall become effective as specified in the terms of the notice to <<customer\_short\_name>> via the applicable Internet website posting. In all other cases, a change in a Guide which (1) alters, amends or conflicts with any term of this Agreement; (2) changes any charge or rate, or the application of any charge or rate, specified in this Agreement; (3) adds a new rate or rate element not previously specified in the Agreement; (4) causes <<customer\_short\_name>> to incur material cost or expense to implement the change or alteration; or (5) increases an interval set forth in this agreement, will not be effective with respect to <<customer\_short\_name>> until BellSouth and <<customer\_short\_name>> sign an amendment to this Agreement reflecting the changes described in items (1), (2), (3), (4) or (5). For purposes of item (4), a cost or expense shall be deemed material if it imposes a financial burden on <<customer\_short\_name>>, but shall not include costs associated with disseminating notice of the change or providing training regarding the change to employees. In addition, BellSouth will use its best efforts, upon <<customer\_short\_name>>'s request to BellSouth's Interconnection Services (ICS) website group at wmag@bellsouth.com, to provide such notices via e-mail to the address specified by <<customer\_short\_name>>.

In the event that the Parties disagree as to whether any alteration or amendment described in this Section is effective as to <<customer\_short\_name>> pursuant to the requirements of this Section, either Party may, at its option, seek resolution of the dispute in accordance with the Dispute Resolution provisions in the General

Terms and Conditions of this Agreement. In cases where there is a dispute with respect to any alteration or amendment described in this Section becoming effective as to <<customer\_short\_name>>, such alteration or amendment described in this Section shall not become effective as to <<customer\_short\_name>> until there is mutual agreement between the Parties that it should become effective or an order resulting from the Dispute Resolution process finding in favor of its becoming effective.

[BellSouth Version] Guides. The Parties acknowledge that certain provisions of this Agreement reference certain BellSouth documents and publications (collectively referred to herein as the "Guides"). All Guides referred to in this Agreement, are incorporated herein and made a part hereof by reference. To the extent that there is a conflict between a provision of a Guide and a provision of this Agreement, the provision of this Agreement shall prevail. BellSouth may, from time to time during the term hereof, change or alter said Guides (including replacing a Guide entirely with a successor Guide with a different name). The Parties agree that if the change or alteration was made to BellSouth's OSS interface Guides as a result of the Change Control Process (CCP), results from a revision to a generally accepted and implemented industry standard or guideline (e.g. Ordering Billing Forum (OBF), Telcordia guidelines, etc.), or other legal requirement directly affecting the Guides provided, if such legal requirement would be subject to the change of law provision in these General Terms and Conditions, the change to the Guide would not be applicable until this Agreement is amended to reflect the update to the Guide, or if <<customer\_short\_name>> agrees to such change or alteration, any such change or alteration shall become effective as specified in the terms of the notice to <<customer\_short\_name>> via the applicable Internet website posting. In all other cases, a change in a Guide which (1) alters, amends or conflicts with any term of this Agreement; (2) changes any charge or rate, or the application of any charge or rate, specified in this Agreement; (3) adds a new rate or rate element not previously specified in the Agreement; (4) causes <<customer\_short\_name>> to incur material cost or expense to implement the change or alteration; or (5) increases an interval set forth in this agreement, will not be effective with respect to <<customer\_short\_name>> until BellSouth and <<customer\_short\_name>> sign an amendment to this Agreement reflecting the changes described in items (1), (2), (3) or (5); **or unless <<customer\_short\_name>> fails to inform BellSouth in writing that it does not agree to such change or alteration within thirty (30) calendar days of notice of such change being given to <<customer\_short\_name>> for item (4).** For purposes of item (4), a cost or expense shall be deemed material if it imposes a financial burden on <<customer\_short\_name>>, but shall not include costs associated with disseminating notice of the change or providing training regarding the change to employees. In addition, BellSouth will use its best efforts, upon <<customer\_short\_name>>'s request to BellSouth's Interconnection Services

(ICS) website group at wmag@bellsouth.com, to provide such notices via e-mail to the address specified by <<customer\_short\_name>>.

In the event that the Parties disagree as to whether any alteration or amendment described in this Section is effective as to <<customer\_short\_name>> pursuant to the requirements of this Section, either Party may, at its option, seek resolution of the dispute in accordance with the Dispute Resolution provisions in the General Terms and Conditions of this Agreement. In cases where there is a dispute with respect to any alteration or amendment described in this Section becoming effective as to <<customer\_short\_name>>, such alteration or amendment described in this Section shall not become effective as to <<customer\_short\_name>> until there is mutual agreement between the Parties that it should become effective or an order resulting from the Dispute Resolution process finding in favor of its becoming effective.

*Issue No. G-16 [Section 45.3]: Should the obligations set forth in the Agreement be impacted by unreasonable and/or discriminatory revisions to BellSouth tariffs?*

45.3

[REDACTED] In various provisions of this Agreement, the Parties have included references to tariffs filed by the Parties. If such tariff is referenced for the purposes of a service that is provisioned pursuant to such tariff, and there is a conflict between such referenced tariff provisions and this Agreement, the terms of the tariff shall control. If the service is provisioned pursuant to this Agreement but the tariff is referenced for a rate, an interval or another purpose, to the extent that there is a conflict between such referenced tariff provision and this Agreement, and except as otherwise set forth in this Agreement, the terms of this Agreement shall prevail. **To the extent a Party alleges that changes made to such tariffs subsequent to the Effective Date are unreasonable and discriminatory, the Parties shall endeavor to negotiate a resolution and incorporate such resolution into this Agreement by written amendment. To the extent that the Parties are unable to reach such resolution or agree on an amendment, the dispute shall be resolved in accordance with the Dispute Resolution provisions set forth in Section 13 above.**

[BellSouth Version] In various provisions of this Agreement, the Parties have included references to tariffs filed by the Parties. If such tariff is referenced for the purposes of a service that is provisioned pursuant to such tariff, and there is a conflict between such referenced tariff provisions and this Agreement, the terms of the tariff shall control. If the service is provisioned pursuant to this Agreement but the tariff is referenced for a rate, an interval or another purpose, to the extent that there is a conflict between such referenced tariff provision and this Agreement, and except as otherwise set forth in this Agreement, the terms of this Agreement shall prevail.

## ATTACHMENT 2

### NETWORK ELEMENTS AND OTHER SERVICES

*Issue No. 2-4 [Section 1.4.3]: (A) Should CLEC be required to submit a BFR/NBR to convert a UNE or Combination (or part thereof) to Other Services or tariffed BellSouth access services? (B) In the event of such conversion, what rates should apply?*

1.4.3 [REDACTED] If <<customer\_short\_name>> wants to convert a UNE or Combination (or part thereof) to Other Services or tariffed BellSouth access services <<customer\_short\_name>> shall submit an **LSR or ASR, as appropriate, and the nonrecurring charges for such conversion shall be as set forth in Exhibit A of this Attachment or the relevant tariff, as appropriate. Such charges shall be commensurate with the work required to effectuate the conversion (cross connect only, billing change/records update only, etc.).**

[BellSouth Version] If <<customer\_short\_name>> wants to convert a UNE or Combination (or part thereof) to Other Services or tariffed BellSouth access services <<customer\_short\_name>> shall submit a **BFR or NBR.**

*Issue No. 2-5 [Section 1.5]: (A) In the event UNEs or Combinations are no longer offered pursuant to, or are not in compliance with, the terms set forth in this Agreement, which Party should bear the obligation of identifying those service arrangements? (B) What recourse may BellSouth take if CLEC does not submit a rearrange or disconnect order within 30 days? (C) What rates, terms and conditions should apply in the event of a termination, re-termination, or physical rearrangements of circuits?*

1.5

**[REDACTED]** Except to the extent expressly provided otherwise in this Attachment, for UNEs or Combinations that are no longer offered pursuant to, or are not in compliance with, the terms set forth in this Agreement, <<customer\_short\_name>> will submit orders to rearrange or disconnect those arrangements or services within thirty (30) calendar days of **its receipt of notice from BellSouth identifying specific service arrangements that must be transitioned to other services pursuant to this Section**. If orders to rearrange or disconnect those arrangements or services are not received by the thirty-first (31<sup>st</sup>) calendar day after **receipt of such notice**, BellSouth may disconnect those arrangements or services without further notice, **provided that <<customer\_short\_name>> has not notified BellSouth of a dispute regarding the identification of specific service arrangements as being no longer offered pursuant to, or are not in compliance with, the terms set forth in this Agreement**. Where no re-termination or physical rearrangement of circuits or service is required, <<customer\_short\_name>> will be charged a nonrecurring switch-as-is charge for the individual Network Element(s) as set forth in Exhibit A of this Attachment. For arrangements that require a re-termination or other physical rearrangement of circuits to comply with the terms of this Agreement, nonrecurring charges for the applicable **UNE or cross connect** from Exhibit A of this Attachment will apply. To the extent re-termination or other physical rearrangement is required in order to comply with a tariff or separate agreement, the applicable rates, terms and conditions of such tariff or separate agreement shall apply.

**[BellSouth Version]** Except to the extent expressly provided otherwise in this Attachment, for UNEs or Combinations that are no longer offered pursuant to, or are not in compliance with, the terms set forth in this Agreement, <<customer\_short\_name>> will submit orders to rearrange or disconnect those arrangements or services within thirty (30) calendar days of **the Effective Date of this Agreement**. If orders to rearrange or disconnect those arrangements or services are not received by the thirty-first (31<sup>st</sup>) calendar day after **the Effective Date of this Agreement**, BellSouth may disconnect those arrangements or services without further notice. Where no re-termination or physical rearrangement of circuits or service is required, <<customer\_short\_name>> will

be charged a nonrecurring switch-as-is charge for the individual UNE(s) as set forth in Exhibit A of this Attachment. For arrangements that require a re-termination or other physical rearrangement of circuits to comply with the terms of this Agreement, nonrecurring charges for the applicable UNE(s) from Exhibit A of this Attachment will apply. To the extent re-termination or other physical rearrangement is required in order to comply with a tariff or separate agreement, the applicable rates, terms and conditions of such tariff or separate agreement shall apply. **Applicable disconnect charges will apply to a UNE/Combination that is rearranged or disconnected.**

*Issue No. 2-7 [Section 1.6.1]: What rates, terms and conditions should apply for Routine Network Modifications pursuant to 47 C.F.R. § 51.319(a)(8) and (e)(5)?*

1.6.1

[REDACTED] BellSouth will perform Routine Network Modifications in accordance with FCC 47 C.F.R. 51.319 (a)(8) and (e)(5). If BellSouth has anticipated such Routine Network Modifications and performs them during normal operations, then BellSouth shall perform such Routine Network Modifications at no additional charge. Routine Network Modifications shall be performed within the intervals established for the UNE and subject to the performance measurements and associated remedies set forth in Attachment 9 to the extent such Routine Network Modifications were anticipated in the setting of such intervals. If BellSouth has not anticipated a requested **or necessary** network modification as being a Routine Network Modification and, as such, has not recovered the costs of such Routine Network Modifications in the rates set forth in Exhibit A of this Attachment, then **BellSouth shall notify <<customer\_short\_name>> of the required Routine Network Modification and shall request that <<customer\_short\_name>> submit a service inquiry (SI) to have the work performed. Each unique request will be handled as a project on an individual case basis. BellSouth will provide a TELRIC-compliant price quote for the request, and upon receipt of a firm order from <<customer\_short\_name>>, BellSouth shall perform the Routine Network Modification.**

[BellSouth Version] BellSouth will perform Routine Network Modifications in accordance with FCC 47 C.F.R. 51.319 (a)(8) and (e)(5). **Except to the extent expressly provided otherwise in this Attachment,** if BellSouth has anticipated such Routine Network Modifications and performs them during normal operations **and has recovered the costs for performing such modifications through the rates set forth in Exhibit A of this Attachment,** then BellSouth shall perform such Routine Network Modifications at no additional charge. Routine Network Modifications shall be performed within the intervals established for the UNE and subject to the performance measurements and associated remedies set forth in Attachment 9 to the extent such Routine Network Modifications were anticipated in the setting of such intervals. If BellSouth has not anticipated a requested network modification as being a Routine Network Modification and has not recovered the costs of such Routine Network Modifications in the rates set forth in Exhibit A of this Attachment, then <<customer\_short\_name>> must submit a service inquiry (SI) to have the work performed. Each request will be handled as a project on an individual case basis. BellSouth will provide a price quote for the request, and upon receipt of **payment** from <<customer\_short\_name>>, BellSouth shall perform the Routine Network Modification.

*Issue No. 2-8 [Section 1.7]: Should BellSouth be required to commingle UNEs or Combinations with any service, network element or other offering that it is obligated to make available pursuant to Section 271 of the Act?*

1.7 [REDACTED] Notwithstanding any other provision of this Agreement, BellSouth will not combine UNEs or Combinations with any service, Network Element or other offering that it is obligated to make available only pursuant to Section 271 of the Act.

[BellSouth Version] Notwithstanding any other provision of this Agreement, BellSouth will not **commingle or** combine UNEs or Combinations with any service, Network Element or other offering that it is obligated to make available only pursuant to Section 271 of the Act.

*Issue No. 2-9 [Section 1.8.3]: When multiplexing equipment is attached to a commingled circuit, should the multiplexing equipment be billed per the jurisdictional authorization (Agreement or tariff) of the lower or higher bandwidth service?*

1.8.3 [REDACTED] When multiplexing equipment is attached to a commingled circuit, the **multiplexing equipment** and Central Office Channel Interfaces will be billed from the same jurisdictional authorization (Agreement or tariff) as the lower bandwidth service.

[BellSouth Version] When multiplexing equipment is attached to a commingled circuit, the **multiplexing equipment** will be billed from the same jurisdictional authorization (agreement or tariff) as the **higher bandwidth service**. The Central Office Channel Interface will be billed from the same jurisdictional authorization (tariff or agreement) as the lower **bandwidth service**.

*Issue No. 2-10 [Section 1.9.4]: Should the recurring charges for UNEs, Combinations and Other Services be prorated based upon the number of days that the UNEs are in service?*

1.9.4 [REDACTED] Fractionalized billing shall apply to all UNEs and Combinations such that recurring charges will be prorated based upon the number of days that the UNEs are in service. Non-recurring charges shall not be fractionalized.

**[BellSouth Version]** After the minimum billing period has been attained, fractionalized billing shall apply to all UNEs and Combinations such that recurring charges will be prorated based upon the number of days that the UNEs and Combinations are in service. Non-recurring charges shall not be fractionalized.

*Issue No. 2-12 [Section 2.1.1.1]: Should the Agreement include a provision declaring that facilities that terminate to another carrier's switch or premises, a cell site, Mobile Switching Center or base station do not constitute loops?*

2.1.1.1 [REDACTED] No Section.

**[BellSouth Version]** Facilities that do not terminate at a demarcation point at an End User customer premises, including, by way of example, but not limited to, facilities that terminate to another carrier's switch or premises, a cell site, Mobile Switching Center or base station, do not constitute Loops.

*Issue No. 2-13 [Section 2.1.1.2]: Should the Agreement require CLEC to purchase the entire bandwidth of a Loop, even in cases where such purchase is not required by Applicable Law?*

2.1.1.2 [REDACTED] <<customer\_short\_name>> shall purchase the entire bandwidth of the Loop and, except as required herein or by **Applicable Law**, or as otherwise agreed to by the Parties, BellSouth shall not subdivide the frequency of the Loop.

[**BellSouth Version**] <<customer\_short\_name>> shall purchase the entire bandwidth of the Loop and, except as required herein or as otherwise agreed to by the Parties, BellSouth shall not subdivide the frequency of the Loop.

*Issue No. 2-15 [Section 2.2.3]: Is unbundling relief provided under FCC Rule 319(a)(3) applicable to Fiber-to-the-Home Loops deployed prior to October 2, 2003?*

2.2.3 [REDACTED] Fiber-to-the-Home Loops. BellSouth will provide access to unbundled Fiber-to-the-Home Loops as required by FCC Rule 51.319(a)(3). **Unbundling relief contemplated by that rule applies only to Fiber-to-the-Home Loop facilities deployed after October 2, 2003.**

[**BellSouth Version**] BellSouth will provide access to unbundled Fiber-to-the-Home Loops as required by FCC Rule 51.319(a)(3).

*Issue No. 2-17 [Sections 2.4.3, 2.4.4]: (A) What rates should apply to testing and dispatch performed by BellSouth in response to a CLEC trouble report when no trouble is ultimately found to exist? (B) What rate should apply when BellSouth is required to dispatch to an end user location more than once due to incorrect or incomplete information?*

2.4.3 [REDACTED] If <<customer\_short\_name>> reports a trouble on a non-designed or designed Loop and no trouble actually exists, BellSouth will charge <<customer\_short\_name>> for any dispatching and testing (both inside and outside the CO) required by BellSouth in order to confirm the Loop's working status, **in accordance with TELRIC compliant rates to be approved by the Commission and incorporated in Exhibit A of this Attachment.** If <<customer\_short\_name>> reports the same trouble on the same UNE Loop within thirty (30) calendar days of BellSouth's notification to <<customer\_short\_name>> of its disposition of the prior trouble, and BellSouth is able to determine that such trouble does exist on BellSouth's network, <<customer\_short\_name>> shall be credited on the next billing cycle for charges associated with the prior trouble.

[BellSouth Version] If <<customer\_short\_name>> reports a trouble on a non-designed or designed Loop and no trouble actually exists, BellSouth will charge <<customer\_short\_name>> for any dispatching and testing (both inside and outside the CO) required by BellSouth in order to confirm the Loop's working status. **BellSouth will assess the applicable Trouble Determination Charge (TDC) rates from BellSouth's FCC No. 1 Section 13.3.1 for designed circuits, Section A4.3.1 of the GSSTs for Alabama, Kentucky, Louisiana, Mississippi and Tennessee where trouble determination for non-designed circuits is covered under premises work charges, Section A15.4.1 of the GSSTs for Florida and North Carolina where trouble determination for non-designed circuits is covered under trouble location charges, and Section N1.1.2 of the Non-Regulated Services Pricing tariff for Georgia and South Carolina where trouble determination for non-designed circuits is covered under trouble determination charges.** If <<customer\_short\_name>> reports the same trouble on the same UNE Loop within thirty (30) calendar days of BellSouth's notification to <<customer\_short\_name>> of its disposition of the prior trouble, and BellSouth is able to determine that such trouble does exist on BellSouth's network, <<customer\_short\_name>> shall be credited on the next billing cycle for charges associated with the prior trouble.

2.4.4 [REDACTED] In the event BellSouth must dispatch to the End User's location more than once due to incorrect or incomplete information provided by <<customer\_short\_name>> (e.g., incomplete address, incorrect contact name/number, etc.), BellSouth will bill <<customer\_short\_name>> for each

additional dispatch required to repair the circuit due to the incorrect/incomplete information provided, **in accordance with TELRIC compliant rates to be approved by the Commission and incorporated in Exhibit A of this Attachment.**

**[BellSouth Version]** In the event BellSouth must dispatch to the End User's location more than once due to incorrect or incomplete information provided by <<customer\_short\_name>> (e.g., incomplete address, incorrect contact name/number, etc.), BellSouth will bill <<customer\_short\_name>> for each additional dispatch required to repair the circuit due to the incorrect/incomplete information provided. **BellSouth will assess the applicable Trouble Determination rates from BellSouth's FCC No. 1 Section 13.3.1 for designed circuits, Section A4.3.1 of the GSSTs for Alabama, Kentucky, Louisiana, Mississippi and Tennessee, where trouble determination for non-designed circuits is covered under premises work charges, Section A15.4.1 of the GSSTs for Florida and North Carolina, where trouble determination for non-designed circuits is covered under trouble location charges, and Section N1.1.2 of BellSouth's Non-Regulated Services Pricing tariff for Georgia and South Carolina, where trouble determination for non-designed circuits is covered under trouble determination charges.**

*Issue No. 2-18 [Section 2.12.1]: (A) How should line Conditioning be defined in the Agreement? (B) What should BellSouth's obligations be with respect to Line Conditioning?*

2.12.1

**[REDACTED]** BellSouth shall perform line conditioning in accordance with FCC 47 C.F.R. 51.319 (a)(1)(iii). Line Conditioning is as defined in FCC 47 C.F.R. 51.319 (a)(1)(iii)(A). Insofar as it is technically feasible, BellSouth shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

**[BellSouth Version]** Line Conditioning is defined as routine network modification that BellSouth regularly undertakes to provide xDSL services to its own customers. This may include the removal of any device, from a copper Loop or copper sub-loop that may diminish the capability of the Loop or sub-loop to deliver high-speed switched wireline telecommunications capability, including xDSL service. Such devices include, but are not limited to; load coils, low pass filters, and range extenders. Insofar as it is technically feasible, BellSouth shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

*Issue No. 2-19 [Section 2.12.2]: Should the Agreement contain specific provisions limiting the availability of Line Conditioning to copper loops of 18,000 feet or less?*

2.12.2

**[REDACTED]** No Section.

**[BellSouth Version]** BellSouth will remove load coils only on copper loops and sub loops that are less than 18,000 feet in length. BellSouth will remove load coils on copper loops and sub loops that are greater than 18,000 feet in length upon <<customer\_short\_name>>'s request at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties.

*Issue No. 2-20 [Sections 2.12.3, 2.12.4]: Under what rates, terms and conditions should BellSouth be required to perform Line Conditioning to remove bridged taps?*

2.12.3 [REDACTED] For any copper loop being ordered by <<customer\_short\_name>> which has over 6,000 feet of combined bridged tap will be modified, upon request from <<customer\_short\_name>>, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to <<customer\_short\_name>>. Line conditioning orders that require the removal of **other** bridged tap will be performed at the rates set forth in Exhibit A of this Attachment.

[BellSouth Version] For any copper loop being ordered by <<customer\_short\_name>> which has over 6,000 feet of combined bridged tap will be modified, upon request from <<customer\_short\_name>>, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to <<customer\_short\_name>>. Line conditioning orders that require the removal of bridged tap **that serves no network design purpose on a copper loop that will result in a combined level of bridged tap between 2,500 and 6,000 feet** will be performed at the rates set forth in Exhibit A of this Attachment.

2.12.4 [REDACTED] **No Section.**

[BellSouth Version] <<customer\_short\_name>> may request removal of any **unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet which serves no network design purpose), at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties. Rates for ULM are as set forth in Exhibit A of this Attachment.**

*Issue No. 2-21 [Section 2.12.6]: (A) Should the Agreement contain a provision barring Line Conditioning that would result in the modification of a Loop in such a way that it no longer meets technical parameters of the original Loop? (B) If not, should the resulting modified Loop be maintained as a non-service -specific Unbundled Copper Loop?*

2.12.6 [REDACTED] **In those cases where <<customer\_short\_name>> has requested that BellSouth modify a Loop so that it no longer meets the technical parameters of the original Loop type (e.g., voice grade, ISDN, ADSL, etc.), the resulting modified Loop will be maintained as a UCL.**

[BellSouth's Version] BellSouth will **not** modify a Loop in such a way that it no longer meets the technical parameters of the original Loop type (e.g., voice grade, ADSL, etc.) being ordered.

*Issue No. 2-22 [Section 2.14.3.1.1]: Should BellSouth be required to allow CLEC to connect its Loops directly to BellSouth's multi-line residential NID enclosures that have inactive loops attached?*

2.14.3.1.1 [REDACTED] BellSouth shall allow <<customer\_short\_name>> to connect its Loops directly to BellSouth's multi-line residential NID enclosures that have spare terminations available or <<customer\_short\_name>> can connect to terminations that currently have loops attached to them but that are not currently used by BellSouth or any other telecommunications carrier to provide service to the premises.

[BellSouth Version] BellSouth shall allow <<customer\_short\_name>> to connect its Loops directly to BellSouth's multi-line residential NID enclosures that have spare terminations available or, **in those states where the Commission has so ordered,** <<customer\_short\_name>> can connect to terminations that currently have loops attached to them but that are not currently used by BellSouth or any other telecommunications carrier to provide service to the premises.

*Issue No. 2-23 [Sections 2.16.2.3.2, 2.16.2.3.3, 2.16.2.3.5]:*

*(A) This issue has been resolved.*

*(B) This issue has been resolved.*

*(C) Should the obligation to provide access to UNTW be limited to existing UNTW? (2.16.2.3.2)*

*(D) Should CLECs have to agree to language that requires them to “ensure” that a customer that has asked to switch service to CLEC is already no longer using another carrier’s service on that pair – or – will language obligating CLEC to use commercially reasonable efforts to access only an “available pair” suffice? (2.16.2.3.3)*

*(E) Should a time limit be placed on a CLEC’s commitment to reimburse costs associated with removing access terminals and restoring the property to its original state (per request of property owner)? (2.16.2.3.5)*

2.16.2.3.2 [REDACTED] **BellSouth** shall not be required to install new or additional UNTW beyond existing UNTW **unless it would do so upon request from one of its own end users or is otherwise required to do so in order to comply with FCC or Commission rules and orders.**

[**BellSouth Version**] **BellSouth** shall not be required to install new or additional NTW beyond existing NTW **to provision the services of <<customer\_short\_name>>.**

2.16.2.3.3 [REDACTED] Upon receipt of an UNTW SI requesting access to BellSouth’s UNTW pairs at a multi-unit premises, representatives of both Parties will participate in a meeting at the site of the requested access. The purpose of the site visit will include discussion of the procedures for installation and location of the Access Terminals. By request of <<customer\_short\_name>>, an Access Terminal will be installed **at a single point of interconnection or** either adjacent to each **(or an individual)** BellSouth Garden Terminal or inside each **(or an individual)** **BellSouth** Wiring Closet. <<customer\_short\_name>> will deliver and connect its facilities to the UNTW pairs within the Access Terminal. <<customer\_short\_name>> may access any available pair on an Access Terminal. A pair is available when a pair is not being utilized to provide service or where the End User has requested a change in its local service provider to <<customer\_short\_name>> on that pair. <<customer\_short\_name>> **shall use commercially reasonable efforts to access only available pairs.**

**[BellSouth Version]** Upon receipt of the UNTW SI requesting access to BellSouth's UNTW pairs at a multi-unit premises, representatives of both Parties will participate in a meeting at the site of the requested access. The purpose of the site visit will include discussion of the procedures for installation and location of the Access Terminals. By request of <<customer\_short\_name>>, an Access Terminal will be installed either adjacent to each of BellSouth's Garden Terminal or inside each Wiring Closet. <<customer\_short\_name>> will deliver and connect its central office facilities to the UNTW pairs within the Access Terminal. <<customer\_short\_name>> may access any available pair on an Access Terminal. A pair is available when a pair is not being utilized to provide service or where the End User has requested a change in its local service provider to <<customer\_short\_name>> on that pair. **Prior to connecting <<customer\_short\_name>>'s service on a pair previously used by BellSouth, <<customer\_short\_name>> is responsible for ensuring the End User is no longer using BellSouth's service or another CLEC's service on that pair before accessing UNTW pairs.**

2.16.2.3.5 **[REDACTED]** <<customer\_short\_name>> is responsible for obtaining the property owner's permission for BellSouth to install an Access Terminal(s) on behalf of <<customer\_short\_name>>. The submission of the SI by <<customer\_short\_name>> will serve as certification by <<customer\_short\_name>> that such permission has been obtained. If the property owner objects to Access Terminal installations that are in progress or **within thirty (30) calendar days of completion** and demands removal of Access Terminals, <<customer\_short\_name>> will be responsible for costs associated with removing Access Terminals and restoring the property to its original state prior to Access Terminals being installed.

**[BellSouth Version]** <<customer\_short\_name>> is responsible for obtaining the property owner's permission for BellSouth to install an Access Terminal(s) on behalf of <<customer\_short\_name>>. The submission of the SI by <<customer\_short\_name>> will serve as certification by <<customer\_short\_name>> that such permission has been obtained. If the property owner objects to Access Terminal installations that are in progress or **subsequent to completion** and demands removal of Access Terminals, <<customer\_short\_name>> will be responsible for costs associated with removing Access Terminals and restoring the property to its original state prior to Access Terminals being installed.

*Issue No. 2-24 [Section 2.17.3.5]: Should BellSouth be required to provide access to Dark Fiber Loops for test access and testing at any technically feasible point?*

2.17.3.5 [REDACTED] BellSouth shall provide access to Dark Fiber Loops for test access and testing at **any technically feasible point**, the termination point within <<customer\_short\_name>>'s Serving Wire Center and at <<customer\_short\_name>>'s End User's premises.

[BellSouth Version] BellSouth shall provide access to Dark Fiber Loop for test access and testing at the termination point within <<customer\_short\_name>>'s Serving Wire Center and at <<customer\_short\_name>>'s End User's premises.

*Issue No. 2-25 [Section 2.18.1.4]: Under what circumstances should BellSouth provide CLEC Loop Makeup information?*

2.18.1.4 [REDACTED] No Section.

[BellSouth Version] **BellSouth's provisioning of LMU information to the requesting CLEC for facilities is contingent upon either BellSouth or the requesting CLEC controlling the Loop(s) that serve the service location for which LMU information has been requested by the CLEC. The requesting CLEC is not authorized to receive LMU information on a facility used or controlled by another CLEC unless BellSouth receives a Letter of Authorization (LOA) from the voice CLEC (owner) or its authorized agent on the LMUSI submitted by the requesting CLEC.**

*Issue No. 2-27 [Section 3.10.3]: What should be CLEC's indemnification obligations under a line splitting arrangement?*

3.10.3 [REDACTED] If <<customer\_short\_name>> is **purchasing line splitting and it is not the data provider**, <<customer\_short\_name>> shall indemnify, defend and hold harmless BellSouth from and against any claims, losses, actions, causes of action, suits, demands, damages, injury, and costs including reasonable attorney fees **reasonably arising or resulting from the actions taken by the data provider in connection with the line splitting arrangement, except to the extent caused by BellSouth's gross negligence or willful misconduct.**

[BellSouth Version] If <<customer\_short\_name>> is **not the data provider**, <<customer\_short\_name>> shall indemnify, defend and hold harmless BellSouth from and against any claims, losses, actions, causes of action, suits, demands, damages, injury, and costs including reasonable attorney fees, **which arise out of actions related to the data provider.**

*Issue No. 2-28 [Section 3.10.4]: (A) In cases where CLEC purchases UNEs from BellSouth, should BellSouth be required not to refuse to provide DSL transport or DSL services (of any kind) to CLEC and its End Users, unless BellSouth has been expressly permitted to do so by the Commission?*

*(B) Where BellSouth provides such transport or services to CLEC and its End Users, should BellSouth be required to do so without charge until such time as it produces an amendment proposal and the Parties amend this Agreement to incorporate terms that are no less favorable, in any respect, than the rates, terms and conditions pursuant to which BellSouth provides such transport and services to any other entity?*

3.10.4

**[REDACTED] In cases where <<customer\_short\_name>> purchases UNEs from BellSouth, BellSouth shall not refuse to provide DSL transport or DSL services (of any kind) to <<customer\_short\_name>> and its End Users, unless BellSouth has been expressly permitted to do so by the Commission. Where BellSouth provides such transport or services to <<customer\_short\_name>> and its End Users, BellSouth shall do so without charge until such time as it produces an amendment proposal and the Parties amend this Agreement to incorporate terms that are no less favorable, in any respect, than the rates, terms and conditions pursuant to which BellSouth provides such transport and services to any other entity.**

**[BellSouth Version] No Section.**

*Issue No. 2-31 [Section 5.2.4]: Under what conditions, if any, may BellSouth deny or delay a CLEC request to convert a circuit to a high capacity EEL?*

5.2.4

[REDACTED] By placing an order for a high-capacity EEL, <<customer\_short\_name>> thereby certifies that the high-capacity EEL service eligibility criteria set forth herein are met for access to a converted high-capacity EEL, a new high-capacity EEL, **or the UNE portion** of a high-capacity commingled EEL. BellSouth may not deny **or delay** <<customer\_short\_name>>'s request for a high-capacity EEL based upon eligibility criteria. **However, BellSouth may notify <<customer\_short\_name>> when it detects an order that it does not believe complies with the eligibility criteria and <<customer\_short\_name>> shall have the option of modifying or canceling such order.**

[BellSouth Version] By placing an order for a high-capacity EEL, <<customer\_short\_name>> thereby certifies that the high-capacity EEL service eligibility criteria set forth herein are met for access to a converted high-capacity EEL, a new high-capacity EEL, **or part** of a high-capacity commingled EEL as a UNE. BellSouth may not deny, **except as set forth in Section 5.2.6 below,** <<customer\_short\_name>>'s request for a high-capacity EEL based upon eligibility criteria, **but shall have the right to clarify the order back to <<customer\_short\_name>> rather than processing the order should the BellSouth representative identify that a service eligibility criteria has been violated such as <<customer\_short\_name>> not having a collocation arrangement in the central office for which the order has been requested.**

*Issue No. 2-32 [Sections 5.2.5.2.1, 5.2.5.2.3, 5.2.5.2.4, 5.2.5.2.5 and 5.2.5.2.7]: Should the high capacity EEL eligibility criteria use the term “customer”, as used in the FCC’s rules, or “End User”?*

5.2.5.2.1 [REDACTED] 1) Each circuit to be provided to each **customer** will be assigned a local number prior to the provision of service over that circuit;

[BellSouth Version] 1) Each circuit to be provided to each **End User** will be assigned a local number prior to the provision of service over that circuit;

5.2.5.2.3 [REDACTED] 3) Each circuit to be provided to each **customer** will have 911 or E911 capability prior to provision of service over that circuit;

[BellSouth Version] 3) Each circuit to be provided to each **End User** will have 911 or E911 capability prior to provision of service over that circuit;

5.2.5.2.4 [REDACTED] 4) Each circuit to be provided to each **customer** will terminate in a collocation arrangement that meets the requirements of FCC 47 C.F.R. 51.318(c);

[BellSouth Version] 4) Each circuit to be provided to each **End User** will terminate in a collocation arrangement that meets the requirements of FCC 47 C.F.R. 51.318(c);

5.2.5.2.5 [REDACTED] 5) Each circuit to be provided to each **customer** will be served by an interconnection trunk in the same LATA as the customer premises served by the EEL over which <<customer\_short\_name>> will transmit the calling party’s number in connection with calls exchanged over the trunk;

[BellSouth Version] 5) Each circuit to be provided to each **End User** will be served by an interconnection trunk in the same LATA as the customer premises served by the EEL over which <<customer\_short\_name>> will transmit the calling party’s number in connection with calls exchanged over the trunk;

5.2.5.2.7 [REDACTED] 7) Each circuit to be provided to each **customer** will be served by a switch capable of switching local voice traffic.

[BellSouth Version] 7) Each circuit to be provided to each **End User** will be served by a switch capable of switching local voice traffic.

*Issue No. 2-33 [Sections 5.2.6, 5.2.6.1, 5.2.6.2, 5.2.6.2.1, 5.2.6.2.3]: (A) How often, and under what circumstances, should BellSouth be able to audit CLEC's records to verify compliance with the high capacity EEL service eligibility criteria?*

*(B) Should there be a notice requirement for BellSouth to conduct an audit and what should the notice include?*

*(C) Who should conduct the audit and how should the audit be performed?*

5.2.6 [REDACTED] BellSouth may, **no more frequently than** on an annual basis, **and only based upon cause, conduct a limited** audit of <<customer\_short\_name>>'s records in order to verify compliance with the **high capacity EEL** eligibility criteria.

[BellSouth Version] BellSouth may, on an annual basis, audit in order to verify compliance with the qualifying service eligibility criteria. **The audit shall be conducted by an independent auditor, and the auditor** must perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA). The auditor will perform an "examination engagement" and issue an opinion regarding <<customer\_short\_name>>'s compliance with the **qualifying service** eligibility criteria. The independent auditor's report will conclude whether <<customer\_short\_name>> has complied in all material respects with the applicable service eligibility criteria. Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor's judgment.

5.2.6.1 [REDACTED] **To invoke its limited right to audit, BellSouth will send a Notice of Audit to <<customer\_short\_name>>, identifying the particular circuits for which BellSouth alleges non-compliance and the cause upon which BellSouth rests its allegations. The Notice of Audit shall also include all supporting documentation upon which BellSouth establishes the cause that forms the basis of BellSouth's allegations of noncompliance. Such Notice of Audit will be delivered to <<customer\_short\_name>> with all supporting documentation no less than thirty (30) calendar days prior to the date upon which BellSouth seeks to commence an audit.**

[BellSouth Version] **No Section.**

5.2.6.2

**[REDACTED]** The audit shall be conducted by a third party independent auditor mutually agreed-upon by the Parties and retained and paid for by BellSouth. The audit shall commence at a mutually agreeable location (or locations) no sooner than thirty (30) calendar days after the parties have reached agreement on the auditor.

**[BellSouth Version]** No Section.

5.2.6.2.1

**[REDACTED]** The audit must be performed in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA) which will require the auditor to perform an “examination engagement” and issue an opinion regarding <<customer\_short\_name>>’s compliance with the high capacity EEL eligibility criteria. AICPA standards and other requirements related to determining the independence of an auditor shall govern the audit of requesting carrier compliance. The concept of materiality governs this audit; the independent auditor’s report will conclude whether or the extent to which <<customer\_short\_name>> complied in all material respects with the applicable service eligibility criteria. Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor’s judgment.

**[BellSouth Version]** No Section.

*Issue No. 2-34 [Section 5.2.6.2.3] – Under what circumstances should CLEC be required to reimburse BellSouth for the cost of the independent auditor?*

5.2.6.2.3

**[REDACTED]** In the event the auditor’s report concludes that <<customer\_short\_name>> did not comply in all material respects with the service eligibility criteria, <<customer\_short\_name>> shall reimburse BellSouth for the cost of the independent auditor. Similarly, to the extent the independent auditor’s report concludes that <<customer\_short\_name>> did comply in all material respects with the service eligibility criteria, BellSouth will reimburse <<customer\_short\_name>> for its reasonable and demonstrable costs associated with the audit, including, among other things, staff time. The Parties shall provide such reimbursement within thirty (30) calendar days of receipt from <<customer\_short\_name>> of a statement of such costs.

**[BellSouth Version]** To the extent the independent auditor’s report concludes that <<customer\_short\_name>> failed to comply with the service eligibility criteria, <<customer\_short\_name>> shall reimburse BellSouth for the cost of the independent auditor. Similarly, to the extent the independent auditor’s report concludes that <<customer\_short\_name>> did comply in all material respects with the service eligibility criteria, BellSouth will reimburse

<<customer\_short\_name>> for its reasonable and demonstrable costs associated with the audit, including, among other things, staff time. The Parties shall provide such reimbursement within thirty (30) calendar days of receipt from <<customer\_short\_name>> of a statement of such costs.

*Issue No. 2-37 [Section 6.4.2]: What terms should govern CLEC access to test and splice Dark Fiber Transport?*

6.4.2 [REDACTED] <<customer\_short\_name>> may **splice and** test Dark Fiber Transport obtained from BellSouth, **at any technically feasible point**, using CLEC or CLEC designated personnel. BellSouth shall provide appropriate interfaces to allow **splicing and testing of** Dark Fiber.

[BellSouth Version] <<customer\_short\_name>> may test Dark Fiber Transport obtained from BellSouth using CLEC or CLEC designated personnel. BellSouth shall provide appropriate interfaces to allow <<customer\_short\_name>> **to test** Dark Fiber.

*Issue No. 2-38 [Sections 7.2, 7.3]: Should BellSouth's obligation to provide signaling link transport and SS7 interconnection at TELRIC-based rates be limited to circumstances in which BellSouth is required to provide and is providing to CLEC unbundled access to Local Circuit Switching?*

7.2 [REDACTED] Call Related Databases are the databases other than OSS, that are used in signaling networks for billing and collection, or the transmission, routing or other provision of a telecommunications service. BellSouth shall only provide unbundled access to BellSouth Switched Access (SWA) 8XX Toll Free Dialing Ten Digit Screening Service, Line Information Database (LIDB), Signaling, Signaling Link Transport, Signaling Transfer Points, SS7 AIN Access, Service Control Point\Databases, Local Number Portability Databases, SS7 Network Interconnection, and Calling Name (CNAM) Database Service at the prices set forth herein where BellSouth is required to provide and is providing unbundled access to local circuit switching to <<customer\_short\_name>>. **SS7 Network Interconnection and Signaling Link Transport shall be provided at the TELRIC-compliant, Commission approved rates set forth in Exhibit A of Attachment 3, regardless of whether BellSouth is required to provide and is providing unbundled access to local circuit switching to <<customer\_short\_name>>.**

[BellSouth Version] Call Related Databases are the databases **set forth in this Attachment**, other than OSS, that are used in signaling networks for billing and collection, or the transmission, routing or other provision of a telecommunications service. **Notwithstanding anything to the contrary herein**, BellSouth shall only provide unbundled access to BellSouth Switched Access (SWA) 8XX Toll Free Dialing Ten Digit Screening Service, Line Information Database (LIDB), Signaling, Signaling Link Transport, Signaling Transfer Points, SS7 AIN Access, Service Control Point\Databases, Local Number Portability Databases, SS7 Network Interconnection, and Calling Name (CNAM) Database Service at the prices set forth herein where BellSouth is required to provide and is providing unbundled access to local circuit switching to <<customer\_short\_name>>.

7.3 [REDACTED] To the extent unbundled local circuit switching is converted to market based switching pursuant to Section 4.2.2 above, BellSouth may, at its discretion, provide access to BellSouth Switched Access (SWA) 8XX Toll Free Dialing Ten Digit Screening Service, LIDB, Signaling, Signaling Transfer Points, SS7 AIN Access, Service Control Point\Databases, Local Number Portability Databases, Calling Name (CNAM) at market based rates pursuant to a separate agreement or tariff.

[BellSouth Version] To the extent unbundled local circuit switching is converted to market based switching pursuant to Section 4.2.2 above, BellSouth may, at its

discretion, provide access to BellSouth Switched Access (SWA) 8XX Toll Free Dialing Ten Digit Screening Service, LIDB, Signaling, **Signaling Link Transport**, Signaling Transfer Points, SS7 AIN Access, Service Control Point\Databases, Local Number Portability Databases, **SS7 Network Interconnection**, Calling Name (CNAM) at market based rates pursuant to a separate agreement or tariff.

*Issue No. 2-39 [Sections 7.4]: Should the Parties be obligated to perform CNAM queries and pass such information on all calls exchanged between them, regardless of whether that would require BellSouth to query a third party database provider?*

7.4 [REDACTED] **The Parties agree that they will perform CNAM queries and pass such information on all calls exchanged between the Parties, regardless of whether that would require BellSouth to query a third party database provider.**

**[BellSouth Version] Nothing in this Agreement will be construed to require BellSouth to query a third party database. Should BellSouth query a third party database then it will be performed subject to a separate agreement. If BellSouth terminates an agreement with a third party database provider, then BellSouth will provide notice pursuant to a carrier notification letter to the CLECs.**

*Issue No. 2-40 [Sections 9.3.5]: Should LIDB charges be subject to application of jurisdictional factors?*

9.3.5 [REDACTED] **No Section.**

**[BellSouth Version] The application of the LIDB rates contained in Exhibit A of this Attachment will be based on a Percent CLEC LIDB Usage (PCLU) factor. <<customer\_short\_name>> shall provide BellSouth a PCLU. The PCLU will be applied to determine the percentage of total LIDB usage to be billed to the other Party at local rates. <<customer\_short\_name>> shall update its PCLU on the first of January, April, July and October and shall send it to BellSouth to be received no later than thirty (30) calendar days after the first of each such month based on local usage for the past three months ending the last day of December, March, June and September, respectively. Requirements associated with PCLU calculation and reporting shall be as set forth in BellSouth's Jurisdictional Factors Reporting Guide, as it is amended from time to time.**

*Issue No. 2-41 [Sections 14.1]: What terms should govern BellSouth's obligation to provide access to OSS?*

14.1 [REDACTED] BellSouth shall provide <<customer\_short\_name>> with nondiscriminatory access to operations support systems on an unbundled basis, in accordance with 47 CFR 51.319(g) and as set forth in Attachment 6. **Operations support system ("OSS") functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by BellSouth's databases and information. BellSouth, as part of its duty to provide access to the pre-ordering function, shall provide <<customer\_short\_name>> with nondiscriminatory access to the same detailed information about the loop that is available to BellSouth.**

[BellSouth Version] BellSouth shall provide <<customer\_short\_name>> with nondiscriminatory access to operations support systems on an unbundled basis, in accordance with Attachment 6.

## ATTACHMENT 3

### INTERCONNECTION

*Issue No. 3-1 [Section 3.3.4 (KMC, NSC, NVX), (3.3.3 XSP)]: Should CLEC be permitted to connect to BellSouth's switch via a Cross Connect or any other technically feasible means of interconnection?*

3.3.4 [REDACTED] **In the event that a Party's Point of Presence is located within any serving wire center (i.e., switch location), such Party may interconnect to the other Party's switch via a Cross Connect or any other technically feasible means of interconnection.**

**[BellSouth Version] If a Party provisions a cross connect for the purposes of interconnection under this Attachment 3, and such cross connect is not associated with a physical or virtual collocation arrangement, the provisioning party shall not charge for such cross connect.**

*Issue No. 3-2 [Section 9.6 (KMC), 9.6 (NSC), 9.6 (NVX, XSP)]: (A) What is the definition of a global outage? (B) Should BellSouth be required to provide upon request, for any trunk group outage that has occurred 3 or more times in a 60 day period, a written root cause analysis report? (C)(1) What target interval should apply for the delivery of such reports? (C)(2) What target interval should apply for reports related to global outages?*

9.6 [REDACTED] Once <<customer\_short\_name>> determines that there is an outage that encompasses either a particular section of the network or the whole network, then <<customer\_short\_name>> shall generate a trouble ticket to the CISC. After issuing the trouble ticket, <<customer\_short\_name>> will notify the appropriate BellSouth representative in the CISC via telephone. <<customer\_short\_name>> may then send an email confirmation to such BellSouth representative. BellSouth will work cooperatively with <<customer\_short\_name>> to determine the appropriate steps to resolve such outage. Additionally, <<customer\_short\_name>> will provide BellSouth with any applicable information that is necessary to resolve such outage and the Parties will work cooperatively to take all steps necessary to resolve the outage. **Upon request, BellSouth will provide a written root cause analysis report for all global outages, and for any trunk group outage that has occurred 3 or more times in a 60 day period. BellSouth shall use best efforts to provide such report within five (5) business days after the request for it is made.**

[BellSouth Version] Once <<customer\_short\_name>> determines that there is an outage that encompasses either a particular section of the network or the whole network, then <<customer\_short\_name>> shall generate a trouble ticket to the CISC. After issuing the trouble ticket, <<customer\_short\_name>> will notify the appropriate BellSouth representative in the CISC via telephone. <<customer\_short\_name>> may then send an email confirmation to such BellSouth representative. BellSouth will work cooperatively with <<customer\_short\_name>> to determine the appropriate steps to resolve such outage. Additionally, <<customer\_short\_name>> will provide BellSouth with any applicable information that is necessary to resolve such outage and the Parties will work cooperatively to take all steps necessary to resolve the outage. <<customer\_short\_name>> **may submit a reasonable request to BellSouth for a written analysis of the cause of any global outage affecting <<customer\_short\_name>>'s network. BellSouth shall use best efforts to provide such report within thirty (30) days of such request.**

*Issue No. 3-3 [Section 10.9.5 (KMC), 10.7.4 (NSC), 10.7.4 (NVX), 10.12.4 (XSP)]: What provisions should apply regarding failure to provide accurate and detailed usage data necessary for the billing and collection of access revenues?*

10.7.4

**[REDACTED]** In the event that either Party fails to provide accurate switched access detailed usage data to the other Party within 90 days after the recording date and the receiving Party is unable to bill and/or collect access revenues due to the sending Party's failure to provide such data within said time period, then the Party failing to send the data as specified herein shall be liable to the other Party in an amount equal to the unbillable or uncollectible revenues. Each company will provide complete documentation to the other to substantiate any claim of such unbillable or uncollectible access revenues. In the event that the Parties disagree as to the liability of the Initial Billing Party for such unbillable or uncollectible revenues, then either Party may invoke the Dispute Resolution process set forth in this Agreement.

**[BellSouth Version]** In the event that the Initial Billing Party, as defined in Section 7.4.4 herein, was provided the accurate switched access detailed usage data in a manner that allowed the Initial Billing Party to generate and provide such data to the Subsequent Billing Party in a reasonable timeframe and where the Initial Billing Party failed to provide notice to the Subsequent Billing Party of any inability to provide such data within a reasonable and nondiscriminatory timeframe and the Subsequent Billing Party is unable to bill and/or collect access revenues due to the Initial Billing Party's failure to provide such data within said time period, then the Initial Billing Party shall be liable to the other Party in an amount equal to the unbillable or uncollectible revenues. Each company will provide complete documentation to the other to substantiate any claim of such unbillable or uncollectible revenues. In the event that the Parties disagree as to the liability of the Initial Billing Party for such unbillable or uncollectible revenues, then either Party may invoke the Dispute Resolution process set forth in this Agreement.

*Issue No. 3-4 [Section 10.10.6 (KMC), 10.8.6 (NSC), 10.8.6 (NVX), 10.13.5 (XSP)]: Under what terms should CLEC be obligated to reimburse BellSouth for amounts BellSouth pays to third party carriers that terminate BellSouth transited/CLEC originated traffic?*

10.8.6

[REDACTED] BellSouth agrees to deliver Transit Traffic originated by <<customer\_short\_name>> to the terminating carrier; provided, however, that <<customer\_short\_name>> is solely responsible for negotiating and executing any appropriate contractual agreements with the terminating carrier for the exchange of Transit Traffic through the BellSouth network. BellSouth will not be liable for any compensation to the terminating carrier or to <<customer\_short\_name>> for transiting <<customer\_short\_name>>-originated or terminated Transit Traffic. **Notwithstanding any other provision of this Attachment**, in the event that the terminating third party carrier imposes on BellSouth any charges or costs for the delivery of Transit Traffic originated by <<customer\_short\_name>>, <<customer\_short\_name>> shall reimburse BellSouth for all charges paid by BellSouth, **which BellSouth is contractually obligated to pay**, provided that BellSouth notifies and, upon request, provides <<customer\_short\_name>> with a copy of such an invoice, if available, or other equivalent supporting documentation (if an invoice is not available), and proof of payment and other applicable supporting documentation. BellSouth will provide such notice and information in a timely, reasonable and nondiscriminatory manner. BellSouth shall diligently review, dispute and pay such third party invoices (or equivalent) in a manner that is at parity with its own practices for reviewing, disputing and paying such invoices (or equivalent) **when no similar reimbursement provision applies**. Additionally, the Parties agree that any billing to a third party or other telecommunications carrier under this section shall be pursuant to MECAB procedures.

[BellSouth Version] BellSouth agrees to deliver Transit Traffic originated by <<customer\_short\_name>> to the terminating carrier; provided, however, that <<customer\_short\_name>> is solely responsible for negotiating and executing any appropriate contractual agreements with the terminating carrier for the exchange of Transit Traffic through the BellSouth network. BellSouth will not be liable for any compensation to the terminating carrier or to <<customer\_short\_name>> for transiting <<customer\_short\_name>>-originated or terminated Transit Traffic. In the event that the terminating third party carrier imposes on BellSouth any charges or costs for the delivery of Transit Traffic originated by <<customer\_short\_name>>, <<customer\_short\_name>> shall reimburse BellSouth for all charges paid by BellSouth, provided that BellSouth notifies <<customer\_short\_name>> and, upon request, provides <<customer\_short\_name>> with a copy of such an invoice, if available, or other equivalent supporting documentation (if an invoice is not available), and proof of payment and other applicable supporting documentation. BellSouth will use

**commercially reasonable efforts to provide such notice and information in a timely, reasonable and nondiscriminatory manner. BellSouth shall diligently review, dispute and pay such third party invoices (or equivalent) in a manner that is at parity with its own practices for reviewing, disputing and paying such invoices (or equivalent) under the same circumstances. Once <<customer\_short\_name>> reimburses BellSouth for any such payments, any disputes with respect to such charges shall be between <<customer\_short\_name>> and the terminating third party carrier. Additionally, the Parties agree that any billing to a third party or other telecommunications carrier under this section shall be pursuant to MECAB procedures.**

*Issue No. 3-5 [Section 10.7.4.2 (KMC), 10.5.5.2 (NSC), 10.5.6.2 (NVX)]: While a dispute over jurisdictional factors is pending, what factors should apply in the interim?*

10.7.4.2

[REDACTED] Upon either Party's request, the Parties will work in good faith to resolve the discrepancy between the factors submitted by the originating party and those proposed by the terminating party pursuant to Section 7.2.5 above. In the event that the Parties are unable to mutually agree as to the appropriate resolution, the Parties may negotiate a mutually agreeable resolution based on the data specific to the traffic patterns of the originating party or either Party may request an audit of the factors in accordance with Section 7.2.9 below. In the event that negotiations and audits fail to resolve disputes between the parties, either Party may seek Dispute Resolution as set forth in the General Terms and Conditions. **While such a dispute is pending, factors reported by the originating Party shall remain in place, unless the Parties mutually agree otherwise.**

[BellSouth Version] Upon either Party's request, the Parties will work in good faith to resolve the discrepancy between the factors submitted by the originating party and those proposed by the terminating party pursuant to Section 7.2.5 above. In the event that the Parties are unable to mutually agree as to the appropriate resolution, the Parties may negotiate a mutually agreeable resolution based on the data specific to the traffic patterns of the originating party or either Party may request an audit of the factors in accordance with Section 7.2.9 below. In the event that negotiations and audits fail to resolve disputes between the parties, either Party may seek Dispute Resolution as set forth in the General Terms and Conditions. **While such a dispute is pending, the factors proposed by the terminating Party pursuant to Section 7.2.5 above shall be utilized, unless the Parties mutually agree otherwise.**

*Issue No. 3-6 [Section 10.10. 1 (KMC), 10.8.1 (NSC)]:  
Should BellSouth be allowed to charge the CLEC a Tandem  
Intermediary Charge for the transport and termination of  
Local Transit Traffic and ISP-Bound Transit Traffic?*

10.10.1 [REDACTED] Each Party shall provide tandem switching and transport services for the other Party's Transit Traffic. Rates for Local Transit Traffic and ISP-Bound Transit Traffic shall be the applicable Call Transport and Termination charges (i.e., common transport and tandem switching charge; end office switching charge is not applicable) as set forth in Exhibit A to this Attachment. Rates for Switched Access Transit Traffic shall be the applicable charges as set forth in the applicable Party's Commission approved Interstate or Intrastate Switched Access tariffs as filed and effective with the FCC or Commission, or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff. Billing associated with all Transit Traffic shall be pursuant to MECAB guidelines.

[BellSouth's Version] Each Party shall provide tandem switching and transport services for the other Party's Transit Traffic. Rates for Local Transit Traffic and ISP-Bound Transit Traffic shall be the applicable Call Transport and Termination charges (i.e., common transport and tandem switching charges and **tandem intermediary charge**; end office switching charge is not applicable) as set forth in Exhibit A to this Attachment. Rates for Switched Access Transit Traffic shall be the applicable charges as set forth in the applicable Party's Commission approved Interstate or Intrastate Switched Access tariffs as filed and effective with the FCC or Commission, or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff. Billing associated with all Transit Traffic shall be pursuant to MECAB guidelines.

*Issue No. 3-7 [Section 10.1 (KMC),10.1 (XSP)]: Should CLEC be entitled to symmetrical reciprocal compensation for the transport and termination of Local Traffic at the tandem interconnection rate?*

10.1 [REDACTED] Notwithstanding any other provision in this Attachment 3, the Parties shall pay each other reciprocal compensation for the transport and termination of Local Traffic at the elemental rates for end office switching, tandem switching and transport, as set forth in Exhibit A. The terminating Party is entitled to bill and the originating Party is obligated to pay reciprocal compensation to the terminating Party at a symmetrical tandem interconnection rate, inclusive of end office switching, tandem switching and transport.

[BellSouth Version] Each Party shall pay compensation to the other Party for the per minute of use rate elements associated with the Call Transport and Termination of Local Traffic.

*Issue No. 3-8 [Section 10.2, 10.2.1 (KMC), 10.2, 10.3 (XSP)]: Should compensation for the transport and termination of ISP-bound Traffic be subject to a cap?*

10.2 [REDACTED] For the per minute of use rate elements associated with Call Transport and Termination, the Parties shall compensate each other at the rate of \$0.0007 per minute of use for ISP-bound Traffic

[BellSouth Version] For the per minute of use rate elements associated with Call Transport and Termination of **ISP-bound Traffic**, the Parties shall compensate each other at the rate of \$0.0007 **per minute of use subject to the ceiling of minutes as set forth below.**

10.3 [REDACTED] No section.

[BellSouth Version] For ISP-bound Traffic exchanged from the Effective Date through the Expiration Date of this Agreement, compensation as set forth in Section 10.2 shall be billed by the terminating Party to the originating Party on the ISP-bound minutes up to a ceiling of ISP-bound minutes, which shall be calculated as set forth in the ISP Order on Remand. The Parties shall exchange data to determine the appropriate volume of minutes to be utilized.

*Issue No. 3-9 [Section 2.1.12 (XSP)]: How should Local Traffic be defined?*

2.1.12

[REDACTED] **Local Traffic** is defined as any telephone call that originates in one exchange and **is terminated** in either the same exchange, or **other mandatory local calling area** associated with the originating exchange (e.g., **mandatory Extended Area Service**) as defined and specified in Section A3 of BellSouth's General Subscriber Service Tariff. **Designation of Local Traffic is not dependent on the type of switching technology used to switch and terminate such Local Traffic, including use of frame switching. Local Traffic includes any cross boundary, intrastate, interLATA or interstate, interLATA calls established as a local call by the ruling regulatory body.**

[BellSouth Version] **Local Traffic** is defined as any telephone call that originates in one exchange **and terminates** in either the same exchange, or other local calling area associated with the originating exchange as defined and specified in Section A3 of BellSouth's General Subscriber Service Tariff.

*Issue No. 3-10 [Section 3.2 (XSP), Ex. A (XSP)]: (A) Should BellSouth be required to provide CLEC with OCn level interconnection at TELRIC-compliant rates? (B) What should those rates be?*

3.2

[REDACTED] Network interconnection may be provided by the Parties via any technically feasible method, **including but not limited to OCn level interconnection at TELRIC-compliant rates**, and at any technically feasible point or points in accordance with applicable FCC and Commission rules and orders.

[BellSouth Version] Network interconnection may be provided by the Parties via any technically feasible method and at any technically feasible point or points **within BellSouth's network** in accordance with applicable FCC and Commission rules and orders.

*Issue No. 3-11 [Sections 3.3.1, 3.3.2, 3.4.5, 10.10.2 (XSP)]:  
Should cost-based interconnection (i.e., TELRIC), be limited  
to the percentage of facilities used for "local" traffic?*

3.3.1 [REDACTED] **Local Channel Facilities.** As part of Call Transport and Termination, either Party may purchase Local Channel facilities from the other Party pursuant to the provisions of this Attachment **and at the rates set forth in Exhibit A.**

[BellSouth Version] **Local Channel Facilities.** As part of Call Transport and Termination, either Party may purchase Local Channel facilities from the other Party pursuant to the provisions of this Attachment. **The percentage of Local Channel Facilities utilized for Local Traffic and ISP-bound Traffic shall be determined based upon the application of the Percent Local Facility (PLF) Factor on a statewide basis. The charges applied to the percentage of Local Channel facilities used for Local Traffic and ISP-bound Traffic as determined by the PLF are set forth in Exhibit A to this Attachment. The remaining percentage of Local Channel Facilities shall be billed at the appropriate Party's intrastate or interstate tariff rates for switched access services or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff.**

3.3.2 [REDACTED] **Dedicated Interoffice Facilities.** As part of Call Transport and Termination, either Party may purchase Dedicated Interoffice facilities from the other Party pursuant to the provisions of this Attachment **and at the rates set forth in Exhibit A.**

[BellSouth Version] **Dedicated Interoffice Facilities.** As part of Call Transport and Termination, either Party may purchase Dedicated Interoffice facilities from the other Party pursuant to the provisions of this Attachment. **The percentage of Dedicated Interoffice Facilities utilized for Local Traffic and ISP-bound Traffic shall be determined based upon the application of the Percent Local Facility (PLF) Factor on a statewide basis. The charges applied to the percentage of Dedicated Interoffice facilities used for Local Traffic and ISP-bound Traffic as determined by the PLF are set forth in Exhibit A to this Attachment. The remaining percentage of the Dedicated Interoffice Facilities shall be billed at the appropriate Party's intrastate or interstate tariff rates for switched access services or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff.**

3.4.5 [REDACTED] Neither Party shall charge the other for its Local Channel portion of the Fiber Meet facility used for Local Traffic and ISP-bound Traffic.

[BellSouth Version] Neither Party shall charge the other for its Local Channel portion of the Fiber Meet facility used for Local Traffic and ISP-bound Traffic.

**The percentage of Dedicated Interoffice Facilities utilized for Local Traffic and ISP-bound Traffic shall be determined based upon the application of the Percent Local Facility (PLF) Factor on a statewide basis. The remaining percentage of the Local Channel shall be billed at the appropriate Party's intrastate or interstate tariff rates for switched access services or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff.**

10.10.2 [REDACTED] No Section.

**[BellSouth Version] Percent Local Facility. Each Party shall report to the other a Percent Local Facility (PLF) factor. The application of the PLF will determine the portion of switched dedicated transport to be billed per the local jurisdiction rates. The PLF shall be applied to Multiplexing, Local Channel and Interoffice Channel Switched Dedicated Transport utilized in the provision of local interconnection trunks. Requirements associated with PLF calculation and reporting shall be as set forth in BellSouth's Jurisdictional Factors Reporting Guide, attached hereto as Exhibit F.**

*Issue No. 3-12 [Section 4.5 (XSP)]: What rate should apply for interconnection trunks and facilities in the event that a rate is not set forth in Exhibit A?*

4.5 [REDACTED] Recurring and nonrecurring rates associated with interconnecting trunk groups between BellSouth and <<customer\_short\_name>> are set forth in Exhibit A. To the extent a rate associated with the interconnecting trunk group is not set forth in Exhibit A, and no Commission approved rate has been set, the rate shall be negotiated by the Parties. If the Parties are unable to agree on a rate, either Party may Petition the Commission to establish a rate.

[BellSouth Version] Recurring and nonrecurring rates associated with interconnecting trunk groups between BellSouth and <<customer\_short\_name>> are set forth in Exhibit A. **To the extent a rate associated with the interconnecting trunk group is not set forth in Exhibit A, the rate shall be as set forth in the appropriate Party's intrastate or interstate tariff rates for switched access services or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff.**

*Issue No. 3-13 [Section 4.6 (XSP)]: Should the costs of two-way interconnection trunks and facilities used for both parties' traffic be split proportionally based on the percentage of traffic originated by each Party or in half?*

4.6 [REDACTED] **For two-way trunk groups that carry only both Parties' non-transit and non-interLATA Switched Access traffic, each Party shall pay its proportionate share of the recurring charges for trunks and associated facilities and nonrecurring charges for additional trunks and associated facilities based on the percentage of the total traffic originated by that Party. The Parties shall determine the applicable percentages twice per year based on the previous six months minutes of use billed by each Party. Each Party shall pay its proportionate share of initial facilities based on the joint forecasts for circuits required by each Party. <<customer\_short\_name>> shall be responsible for ordering and paying for any two-way trunks carrying Transit Traffic.**

[BellSouth Version] **For two-way trunk groups that carry only both Parties' Local Traffic, the Parties shall be compensated at 50% of the nonrecurring and recurring rates for dedicated trunks and DS1 facilities. <<customer\_short\_name>> shall be responsible for ordering and paying for any two-way trunks carrying Transit Traffic.**

*Issue No. 3-14 [Sections 10.10.4, 10.10.5, 10.10.6, 10.10.7 (XSP)]: Should CLEC be permitted to bill BellSouth based on actual traffic measurements, in lieu of BellSouth-reported jurisdictional factors?*

10.10.4 [REDACTED] **In Lieu of Jurisdictional Factors Reported.** Notwithstanding the provisions in Section 9.8.1, 9.8.2, and 9.8.3 above, where the terminating Party has message recording technology that identifies the jurisdiction of traffic terminated as defined in this Agreement, such information shall, at the terminating Party's option, **either (1) be used to bill based upon actual measurements and jurisdictionalization, in lieu of factors reported by the originating party, or (2) be utilized to determine the appropriate jurisdictional reporting factors, in lieu of those provided by the originating Party.** In the event that the terminating Party opts to utilize its own data to determine jurisdictional reporting factors, such terminating Party shall notify the originating Party at least 30 days prior to the beginning of the calendar quarter in which the terminating Party will begin to utilize its own data.

**[BellSouth Version] In Lieu of Jurisdictional Factors Reported.** Notwithstanding the provisions in Section 9.8.1, 9.8.2, and 9.8.3 above, where the terminating Party has message recording technology that identifies the jurisdiction of traffic terminated as defined in this Agreement, such information shall, at the terminating Party's option, be utilized to determine the appropriate jurisdictional reporting factors, in lieu of those provided by the originating Party. In the event that the terminating Party opts to utilize its own data to determine jurisdictional reporting factors, such terminating Party shall notify the originating Party at least 30 days prior to the beginning of the calendar quarter in which the terminating Party will begin to utilize its own data.

10.10.5 [REDACTED] Upon the request of the originating Party, the terminating Party shall provide supporting data for the jurisdictional factors **or actual measurements** utilized by the terminating Party in lieu of those reported by the originating Party.

**[BellSouth Version]** Upon the request of the originating Party, the terminating Party shall provide supporting data for the jurisdictional factors utilized by the terminating Party in lieu of those reported by the originating Party.

10.10.6 [REDACTED] Upon either Party's request, the Parties will work in good faith to resolve the discrepancy between the factors submitted by the originating party and factors **or actual measurements** utilized by the terminating party pursuant to Section 9.8.4 above. In the event that the Parties are unable to mutually agree as to the appropriate resolution, the Parties may negotiate a mutually agreeable resolution based on the data specific to the traffic patterns of the originating party

or either Party may request an audit of the factors or actual measurements in accordance with Section 9.8.7 below.

[BellSouth Version] Upon either Party's request, the Parties will work in good faith to resolve the discrepancy between the factors submitted by the originating party and factors utilized by the terminating party pursuant to Section 9.8.4 above. In the event that the Parties are unable to mutually agree as to the appropriate resolution, the Parties may negotiate a mutually agreeable resolution based on the data specific to the traffic patterns of the originating party or either Party may request an audit of the factors in accordance with Section 9.8.7 below.

10.10.7

[REDACTED] Audits. On thirty (30) days written notice, each Party must provide the other the ability and opportunity to conduct an annual audit of the jurisdictional reporting factors as reported or factors or actual measurements utilized pursuant to this Attachment 3 to ensure the proper billing of traffic. BellSouth and <<customer\_short\_name>> shall retain records of call detail for a minimum of six months from which the jurisdictional reporting factors can be ascertained. The audit shall be conducted during normal business hours at an office designated by the Party being audited. Audit requests shall not be submitted more frequently than one (1) time per calendar year. The Parties shall use commercially reasonable efforts to complete audits in as timely a manner as possible. Audits shall be performed by a mutually acceptable independent auditor paid for by the Party requesting the audit. The jurisdictional reporting factors or actual measurements shall be adjusted based upon the audit results and shall apply for the quarter the audit was completed, for the quarter prior to the completion of the audit, and, if factors are used, for the two quarters following the completion of the audit. If, as a result of an audit, either Party is found to have overstated the jurisdictional reporting factors or actual measurements by twenty percentage points (20%) or more, that Party shall reimburse the auditing Party for the cost of the audit.

[BellSouth Version] Audits. On thirty (30) days written notice, each Party must provide the other the ability and opportunity to conduct an annual audit of the jurisdictional reporting factors as reported or factors utilized pursuant to this Attachment 3 to ensure the proper billing of traffic. BellSouth and <<customer\_short\_name>> shall retain records of call detail for a minimum of six months from which the jurisdictional reporting factors can be ascertained. The audit shall be conducted during normal business hours at an office designated by the Party being audited. Audit requests shall not be submitted more frequently than one (1) time per calendar year. The Parties shall use commercially reasonable efforts to complete audits in as timely a manner as possible. Audits shall be performed by a mutually acceptable independent auditor paid for by the Party requesting the audit. The jurisdictional reporting factors or actual measurements shall be adjusted based upon the audit results and shall apply for the quarter the audit was completed, for the quarter prior to the completion of the audit, and, if factors are used, for the two quarters following the completion of the

audit. If, as a result of an audit, either Party is found to have overstated the jurisdictional reporting factors or actual measurements by twenty percentage points (20%) or more, that Party shall reimburse the auditing Party for the cost of the audit.

## ATTACHMENT 4

### COLLOCATION

*Issue No. 4-1 [Section 3.9]: (A) What definition of "Cross Connect" should be included in the Agreement?*

3.9

**[REDACTED]** **Cross Connect.** A cross-connection (cross-connect) is a cabling scheme between cabling runs subsystems, and equipment using patch cords or jumper wires that attach to connection hardware on each end, as defined and described by the FCC in its applicable rules and orders. A cross connect may consist of a jumper on a frame (Main Distribution or Intermediate Distribution) or panel (DSX or LGX) that is used to connect equipment and/or facility terminations together. For collocation arrangements, the definition of cross connect will also include the tie cable connecting the frame/panel with the collocation demarc if the demarc is located at a point other than the frame/panel (POT Bay). A cross connect involved in connecting equipment/facility terminations with equipment/facility terminations associated with a collocation arrangement, either physical or virtual, is ordered separately and is charged at the rates found in Attachment 2 or Attachment 4. A cross connect involved in the provision of services not associated with a collocation arrangement is not ordered but is provisioned by BellSouth, at no additional charge, in conjunction with the provisioning of the service.

**[BellSouth Version]** Cross Connect. A cross connect is a jumper on a frame (Main Distribution or Intermediate Distribution) or panel (DSX or LGX) that is used to connect equipment and/or facility terminations together. For collocation arrangements, the definition of cross connect will also include the tie cable connecting the frame/panel with the collocation demarc if the demarc is located at a point other than the frame/panel (POT Bay). A cross connect involved in connecting equipment/facility terminations with equipment/facility terminations associated with a collocation arrangement, either physical or virtual, is ordered separately and is charged at the rates found in Attachment 2 or Attachment 4. A cross connect involved in the provision of services not associated with a collocation arrangement is not ordered but is provisioned by BellSouth, at no additional charge, in conjunction with the provisioning of the service.

*Issue No. 4-2 [Sections 5.21.1, 5.21.2]: With respect to interference and impairment issues raised outside of the scope of the FCC Rule 51.233 (which relates to the deployment of Advanced Services equipment) what provisions should be included in the Agreement?*

5.21.1

[REDACTED] Notwithstanding any other provisions of this Attachment, <<customer\_short\_name>> shall not use any product or service provided under this Agreement, any other service related thereto or used in combination therewith, or place or use any equipment or facilities in any manner that 1) significantly degrades service provided by BellSouth; 2) endangers or damages the equipment or facilities of BellSouth **or any other telecommunications carrier collocated in the Premises**; 3) **knowingly and unlawfully** compromises the privacy of communications routed through the Premises; or 4) creates an unreasonable risk of injury or death to any individual or to the public. If BellSouth reasonably determines that any equipment or facilities of <<customer\_short\_name>> violates the provisions of this paragraph, BellSouth shall provide written notice to <<customer\_short\_name>>, which shall direct <<customer\_short\_name>> to cure the violation within forty-eight (48) hours of <<customer\_short\_name>>'s actual receipt of written notice or, if such cure is not feasible, at a minimum, to commence curative measures within twenty-four (24) hours and to exercise reasonable diligence to complete such measures as soon as possible thereafter. After receipt of the notice, the Parties agree to consult immediately and, if necessary, to conduct an inspection of the arrangement. The Parties will act in good faith and in a cooperative manner to determine or isolate the source of significant degradation. **Any dispute regarding the source of the risk, impairment, interference, or degradation may be resolved pursuant to the dispute resolution provisions set forth in the General Terms and Conditions of this Agreement.**

[BellSouth's Version] Interference or Impairment. Notwithstanding any other provisions of this Attachment, <<customer\_short\_name>> shall not use any product or service provided under this Agreement, any other service related thereto or used in combination therewith, or place or use any equipment or facilities in any manner that 1) significantly degrades, **interferes with or impairs** service provided by BellSouth, or **by any other entity or any person's use of its telecommunications services**; 2) endangers or damages the equipment, **facilities or any other property of BellSouth or of any other entity or person**; 3) **compromises the privacy of any communications** routed through the Premises or 4) creates an unreasonable risk of injury or death to any individual or to the public. If BellSouth reasonably determines that any equipment or facilities of <<customer\_short\_name>> violates the provisions of this paragraph, BellSouth shall provide written notice to <<customer\_short\_name>>, which shall direct <<customer\_short\_name>> to cure the violation within forty-eight (48) hours of <<customer\_short\_name>>'s actual receipt of written notice or, if such cure is not

feasible, at a minimum, to commence curative measures within twenty-four (24) hours and to exercise reasonable diligence to complete such measures as soon as possible thereafter. After receipt of the notice, the Parties agree to consult immediately and, if necessary, to conduct an inspection of the arrangement. The Parties will act in good faith and in a cooperative manner to determine or isolate the source of significant degradation. **Either Party may submit any dispute regarding the source of the risk, impairment, interference, or degradation to the Commission.**

5.21.2

[REDACTED] Except in the case of the deployment of an advanced service which significantly degrades the performance of other advanced services or traditional voice band services, if the violation is of a character that poses an immediate and substantial threat of **physical** damage to property or injury or death to any person, then and only in that event, BellSouth may take such action as it deems necessary to eliminate such threat, including, without limitation, the interruption of electrical power to <<customer\_short\_name>>'s equipment which BellSouth has determined beyond a reasonable doubt is the cause of such threat. BellSouth must provide notice to <<customer\_short\_name>> prior to, or, if made impossible due to the nature of the threat imposed, as soon as possible after the taking of such action and provided that BellSouth, its agents, contractors or employees conduct themselves in strict compliance with this Section and except to the extent that such action by BellSouth fails to comport with the requirements of this paragraph or otherwise constitutes negligence, gross negligence or willful misconduct, BellSouth shall have no liability to <<customer\_short\_name>> for any damages arising from such action.

[BellSouth Version] Except in the case of the deployment of an advanced service which significantly degrades the performance of other advanced services or traditional voice band services, if <<customer\_short\_name>> **fails to commence curative action within twenty-four (24) hours and exercise reasonable diligence to complete such action as soon as possible** or if the violation is of a character that poses an immediate and substantial threat of damage to property or injury or death to any person, **or any other significant degradation, interference or impairment of BellSouth's or another entity's service**, then and only in that event, BellSouth may take such action as it deems necessary to eliminate such threat, including, without limitation, the interruption of electrical power to <<customer\_short\_name>>'s equipment which BellSouth has determined beyond a reasonable doubt is the cause of such threat. BellSouth will provide notice to <<customer\_short\_name>> prior to, or, if made impossible due to the nature of the threat imposed, as soon as possible after the taking of such action and provided that BellSouth, its agents, contractors or employees conduct themselves in strict compliance with this Section and except to the extent that such action by BellSouth fails to comport with the requirements of this paragraph or otherwise constitutes negligence, gross negligence or willful misconduct, BellSouth shall have no liability to <<customer\_short\_name>> for any damages arising from such action.

*Issue No. 4-3 [Section 8.1]: Where grandfathering is appropriate, which rates should apply?*

8.1

[REDACTED] Commission Approved Rates and Charges.

<<customer\_short\_name>> agrees to pay the rates and charges identified in Exhibit B attached hereto. Where rates have been “grandfathered”, those rates shall be the rates that were in effect prior to the Effective Date of this Agreement, **unless application of such rates would be inconsistent with the underlying purpose for grandfathering**, or otherwise specified herein, and such rates shall be incorporated in Exhibit B attached hereto.

[BellSouth Version] Commission Approved Rates and Charges.

<<customer\_short\_name>> agrees to pay the rates and charges identified in Exhibit B attached hereto. Where rates have been “grandfathered”, those rates shall be the rates that were in effect prior to the Effective Date of this Agreement, or otherwise specified herein, and such rates shall be incorporated in Exhibit B attached hereto.

*Issue No. 4-4 [Section 8.4]: When should BellSouth commence billing of recurring charges for power?*

8.4 [REDACTED] Billing for recurring charges for **floor space, if applicable**, will begin on the Space Acceptance Date as defined above in Section 4.3 above. In the event that <<customer\_short\_name>> fails to complete an acceptance walkthrough within the applicable fifteen (15th) calendar day interval, billing for recurring charges will commence on the Space Ready Date. If <<customer\_short\_name>> occupies the space prior to the Space Ready Date, the date <<customer\_short\_name>> occupies the space is deemed the new Space Acceptance Date and billing for recurring charges **for floor space, if applicable, will begin on that date. Billing for recurring charges for power (if drawn from BellSouth), will commence on the date upon which the primary and redundant connections from <<customer\_short\_name>>'s equipment in the Collocation Space to the BellSouth power board or BDFB are installed. <<customer\_short\_name>> must notify BellSouth in writing when the collocation equipment to power source installation is complete.**

[BellSouth Version] **Recurring Charges.** If <<customer\_short\_name>> has met the applicable fifteen (15th) calendar day walkthrough interval specified in Section 4.3 above, billing for recurring charges will begin upon the Space Acceptance Date. **In the event that <<customer\_short\_name>> fails to complete an acceptance walkthrough within the applicable fifteen (15th) calendar day interval, billing for recurring charges will commence on the Space Ready Date. If <<customer\_short\_name>> occupies the space prior to the Space Ready Date, the date <<customer\_short\_name>> occupies the space is deemed the new Space Acceptance Date and billing for recurring charges will begin on that date.**

*Issue No. 4-5 [Section 8.6]: Should CLEC be required to pay space preparation fees and charges with respect to collocations when it already has paid space preparation charges through ICB or NRC pricing?*

8.6

[REDACTED] Space Preparation. Space preparation fees consist of a nonrecurring charge for firm order processing and monthly recurring charges for central office modifications assessed per arrangement, per square foot and common systems modifications assessed per arrangement, per square foot for cageless collocation and per cage for caged collocation.

<<customer\_short\_name>> shall remit payment of the nonrecurring firm order processing fee coincident with submission of a BFFO. The charges recover the costs associated with preparing the Collocation Space, which includes survey, engineering of the Collocation Space, design and modification costs for network, building and support systems. In the event <<customer\_short\_name>> opts for cageless space, the space preparation fees will be assessed based on the total floor space dedicated to <<customer\_short\_name>> as prescribed in this Section. The Space preparation fees provided for in this Attachment shall not apply when <<customer\_short\_name>> has paid space preparation charges through previously billed ICB or nonrecurring space preparation charges.

[BellSouth Version] Space Preparation. Space preparation fees consist of a nonrecurring charge for firm order processing and monthly recurring charges for central office modifications assessed per arrangement, per square foot and common systems modifications assessed per arrangement, per square foot for cageless collocation and per cage for caged collocation.

<<customer\_short\_name>> shall remit payment of the nonrecurring firm order processing fee coincident with submission of a BFFO. The charges recover the costs associated with preparing the Collocation Space, which includes survey, engineering of the Collocation Space, design and modification costs for network, building and support systems. In the event <<customer\_short\_name>> opts for cageless space, the space preparation fees will be assessed based on the total floor space dedicated to <<customer\_short\_name>> as prescribed in this Section. The Space preparation fees provided for in this Attachment shall not apply when <<customer\_short\_name>> has paid **all** space preparation charges **in full** through previously billed ICB or nonrecurring space preparation charges.

*Issue No. 4-6 [Sections 8.11, 8.11.1, 8.11.2]: What rates should apply for BellSouth-supplied DC power?*

8.11 [REDACTED] Power Rates. Rates for power are as set forth in Exhibit B of this Attachment. Applicable rates shall vary depending on whether <<customer\_short\_name>> elects to be billed on a “fused amp” basis, by electing to remain (or install new collocations or augments) under the traditional collocation power billing method, or on a “used amp” basis, by electing to convert collocations to (or install new collocations or augments under) the power usage metering option set forth in Section 9 below. Under either billing method, there will be rates applicable to grandfathered collocations for which power plant infrastructure costs have been prepaid under a ICB pricing or non-recurring charge arrangement and there will rates applicable where such grandfathering does not apply and power plant infrastructure is instead recovered via recurring charges.

[BellSouth Version] Power Rates. Rates for power are as set forth in Exhibit B of this Attachment. **Recurring charges for -48V DC power will be assessed per amp per month based upon the BellSouth Certified Supplier engineered and installed power feed fused ampere capacity. In Tennessee, applicable rates shall vary depending on whether <<customer\_short\_name>> elects to be billed on a “fused amp” basis, by electing to remain (or install new collocations or augments) under the traditional collocation power billing method or on a “used amp” basis, by electing to convert collocations to (or install new collocations or augments under) the power usage metering option set forth in Section 9 below. Under either billing method, there will be rates applicable to grandfathered collocations for which power plant infrastructure costs have been prepaid under a ICB pricing or non-recurring charge arrangement and there will rates applicable where such grandfathering does not apply and power plant infrastructure is instead recovered via recurring charges.**

8.11.1 [REDACTED] Under the fused amp billing option, <<customer\_short\_name>> shall be billed at the Commission’s most recently approved fused amp recurring rate for DC power. However, if the Parties either previously agreed to “grandfather” such arrangements or such arrangements are grandfathered as a result of <<customer\_short\_name>> having provided documentation to BellSouth demonstrating that <<customer\_short\_name>> paid installation costs under an ICB or nonrecurring rate schedule for the collocation arrangement power installation, <<customer\_short\_name>> will only be billed the recurring rate for the DC power in effect prior to the Effective Date of this Agreement, or, if such grandfathered rates had not been incorporated into the Parties’ most recent Agreement, the **most recent Commission approved rate that does not include an infrastructure component shall apply.**

[BellSouth Version] **In Tennessee, under the fused amp billing option, <<customer\_short\_name>> shall be billed at the Commission’s most recently**

approved fused amp recurring rate for DC power. However, if the Parties either previously agreed to “grandfather” such arrangements or such arrangements are grandfathered as a result of <<customer\_short\_name>> having provided documentation to BellSouth demonstrating that <<customer\_short\_name>> paid installation costs under an ICB or nonrecurring rate schedule for the collocation arrangement power installation, <<customer\_short\_name>> will only be billed the recurring rate for the DC power in effect prior to the Effective Date of this Agreement, or, if such grandfathered rates had not been incorporated into the Parties’ most recent Agreement, the **rates contained in Exhibit B of this Attachment.**

8.11.2 [REDACTED] Under the power usage metering option, recurring charges for DC power are subdivided into a power infrastructure component and an AC usage component (based on DC amps consumed). However, if the Parties either previously agreed to “grandfather” such arrangements or such arrangements are grandfathered as a result of <<customer\_short\_name>> having provided documentation to BellSouth demonstrating that <<customer\_short\_name>> paid installation costs under an ICB or nonrecurring rate schedule for the collocation arrangement power installation, <<customer\_short\_name>> will only be billed a recurring rate for the AC usage based on the most recent Commission approved rate and the DC power infrastructure component exclusive of the costs previously paid through the ICB or NRC pricing (**as set by the Commission**).

[BellSouth Version] In Tennessee, Under the power usage metering option, recurring charges for DC power are subdivided into a power infrastructure component and an AC usage component (based on DC amps consumed). However, if the Parties either previously agreed to “grandfather” such arrangements or such arrangements are grandfathered as a result of <<customer\_short\_name>> having provided documentation to BellSouth demonstrating that <<customer\_short\_name>> paid installation costs under an ICB or nonrecurring rate schedule for the collocation arrangement power installation, <<customer\_short\_name>> will only be billed a recurring rate for the AC usage based on the most recent Commission approved rate and the DC power infrastructure component exclusive of the costs previously paid through the ICB or NRC pricing.

*Issue No. 4-7 [Section 9.1.1]: Under the fused amp billing option, how will recurring and non-recurring charges be applied and what should those charges be?*

9.1.1 [REDACTED] Fused Amp Billing **Option**. Monthly recurring charges for -48V DC power will be assessed per fused amp per month in a manner consistent with Commission orders and as set forth in Section 8 of this Attachment. Nonrecurring charges for -48V DC power distribution, will be **as set by the Commission**.

[BellSouth Version] Fused Amp Billing. Monthly recurring charges for -48V DC power will be assessed per fused amp per month **based upon the engineered and installed power feed fused ampere capacity** in a manner consistent with Commission orders and as set forth in Section 8 of this Attachment. Nonrecurring charges for -48V DC power distribution **will be based on the costs associated with collocation power plant investment and the associated infrastructure**.

*Issue No. 4-8 [Sections 9.1.2, 9.1.3]: (A) Should CLEC be permitted to choose between a fused amp billing option and a power usage metering option? (B) If power usage metering is allowed, how will recurring and non-recurring charges be applied and what should those charges be?*

9.1.2 [REDACTED] Power Usage Metering Option. Monthly recurring charges for -48V DC power will be assessed based on a consumption component and, if applicable, an infrastructure component, as set forth in Section 8 of this Attachment. Nonrecurring charges for -48V DC power distribution will be **as set by the Commission.**

[BellSouth Version] **Tennessee Power Usage Metering Option. In Tennessee,** monthly recurring charges for -48V DC power will be assessed based on a consumption component and, if applicable, an infrastructure component, as set forth in Section 8 of this Attachment. Nonrecurring charges for -48V DC power distribution will be **based on the costs associated with collocation power plant investment and the associated infrastructure.**

9.1.3 [REDACTED] When <<customer\_short\_name>> selects the power usage metering option for power billing, the following terms shall apply.

[BellSouth Version] **In Tennessee,** <<customer\_short\_name>> may select the power usage metering option for power billing, in which case the following terms shall apply.

*Issue No. 4-9 [Sections 9.3]: For BellSouth-supplied AC power, should CLEC be entitled to choose between a fused amp billing option and a power usage metering option?*

9.3

[REDACTED] If <<customer\_short\_name>> elects to install its own DC Power Plant, BellSouth shall provide Alternating Current (AC) power to feed <<customer\_short\_name>>'s DC Power Plant. Charges for AC power will be assessed **in the same manner as charges for DC power are assessed, as set forth in Section 9.1 (including subsections above)**. When obtaining power from a BellSouth service panel, protection devices and power cables must be engineered (sized) and installed by <<customer\_short\_name>>'s BellSouth Certified Supplier, with the exception that BellSouth shall engineer and install protection devices and power cables for Adjacent Collocation. <<customer\_short\_name>>'s BellSouth Certified Supplier must also provide a copy of the engineering power specifications prior to the day on which <<customer\_short\_name>>'s equipment becomes operational. Charges for AC power shall be assessed pursuant to the rates specified in Exhibit B. AC power voltage and phase ratings shall be determined on a per location basis. At <<customer\_short\_name>>'s option, <<customer\_short\_name>> may arrange for AC power in an Adjacent Collocation arrangement from a retail provider of electrical power.

[BellSouth Version] If <<customer\_short\_name>> elects to install its own DC Power Plant, BellSouth shall provide Alternating Current (AC) power to feed <<customer\_short\_name>>'s DC Power Plant. Charges for AC power will be assessed per **breaker** ampere. When obtaining power from a BellSouth service panel, protection devices and power cables must be engineered (sized) and installed by <<customer\_short\_name>>'s BellSouth Certified Supplier, with the exception that BellSouth shall engineer and install protection devices and power cables for Adjacent Collocation. <<customer\_short\_name>>'s BellSouth Certified Supplier must also provide a copy of the engineering power specifications prior to the day on which <<customer\_short\_name>>'s equipment becomes operational. Charges for AC power shall be assessed pursuant to the rates specified in Exhibit B. AC power voltage and phase ratings shall be determined on a per location basis. At <<customer\_short\_name>>'s option, <<customer\_short\_name>> may arrange for AC power in an Adjacent Collocation arrangement from a retail provider of electrical power.

*Issue No. 4-10 [Sections 13.6]: (A) Should BellSouth have the right to request the removal from BellSouth's Premises of a CLEC employee where the CLEC employee has not been found to have interfered with the property or personnel of BellSouth or another telecommunications carrier in a significant and material way? (B) In instances where interference caused by CLEC employee has not been found to have interfered with the property or personnel of BellSouth or another telecommunications carrier in a significant and material way, should the Parties be required to cooperate to ensure that appropriate remedial measures are taken that are less likely to have a significant impact on CLEC's daily operations?*

13.6 [REDACTED] At BellSouth's request, <<customer\_short\_name>> shall promptly remove from BellSouth's Premises any employee of <<customer\_short\_name>> BellSouth does not wish to grant access to its premises pursuant to any investigation conducted by BellSouth or prior to the initiation of an investigation if an employee of <<customer\_short\_name>> is found interfering with the property or personnel of BellSouth or another collocated telecommunications carrier **in a significant and material way**. Such investigation shall be commenced and completed by BellSouth as promptly and expeditiously as possible. The Parties shall cooperate and communicate, to the extent circumstances permit, to ensure that the Parties may take appropriate remedial measures **and so that <<customer\_short\_name>> personnel are not denied access for activity that does not have a significant and material impact and that would be more suitably addressed through disciplinary measures less likely to have a significant impact on <<customer\_short\_name>>'s daily operations.**

[BellSouth Version] At BellSouth's request, <<customer\_short\_name>> shall promptly remove from BellSouth's Premises any employee of <<customer\_short\_name>> BellSouth does not wish to grant access to its premises pursuant to any investigation conducted by BellSouth or prior to the initiation of an investigation if an employee of <<customer\_short\_name>> is found interfering with the property or personnel of BellSouth or another collocated telecommunications carrier. Such investigation shall be commenced and completed by BellSouth as promptly and expeditiously as possible. The Parties shall cooperate and communicate, to the extent circumstances permit, to ensure that the Parties may take appropriate remedial measures.

## ATTACHMENT 6

### ORDERING

*Issue No. 6-1 [Section 2.5.1]: Should payment history be included in the CSR?*

- 2.5.1 [REDACTED] CSR information shall include customer payment history to the extent authorized or required by the FCC, Commission or End User.

[BellSouth Version] No Section.

*Issue No. 6-2 [Section 2.5.5]: Should CLEC have to provide BellSouth with access to CSRs within firm intervals?*

- 2.5.5 [REDACTED] Subject to the same exclusions that apply to BellSouth's delivery of CSRs, <<customer\_short\_name>> shall use best efforts to provide to BellSouth access to CSRs within an average of five (5) business days of a valid request.

[BellSouth Version] Subject to the same exclusions that apply to BellSouth's delivery of CSRs, <<customer\_short\_name>> shall provide to BellSouth access to CSRs within four (4) hours after request via electronic access where available. If electronic access is not available, <<customer\_short\_name>> shall provide to BellSouth paper copies of customer record information including circuit numbers associated with each telephone number where applicable within forty-eight (48) hours of a valid request.

*Issue No. 6-3 [Sections 2.5.6.2, 2.5.6.3]: (A) What procedures should apply when one Party alleges, via written notice, that the other Party has engaged in unauthorized access to CSR information? (B) How should disputes over alleged unauthorized access to CSR information be handled under the Agreement?*

2.5.6.2 [REDACTED] Notice of Noncompliance. If, after receipt of a requested LOA or, if no LOA is provided by the seventh (7th) business day after such request has been made, the requesting Party determines that the other Party has accessed CSR information without having obtained the proper End User authorization, the requesting Party will send written notice to the other Party specifying the alleged noncompliance. **The Party receiving the notice agrees to acknowledge receipt of the notice as soon as practicable. If the Party receiving the notice does not dispute the other Party's assertion of non-compliance, the receiving Party agrees to provide the other Party with notice that appropriate corrective measures have been taken or will be taken as soon as practicable.**

[BellSouth Version] Notice of Noncompliance. If, after receipt of a requested LOA, the requesting Party determines that the other Party has accessed CSR information without having obtained the proper End User authorization, or, if no LOA is provided by the seventh (7th) business day after such request has been made, the requesting Party will send written notice to the other Party specifying the alleged noncompliance.

2.5.6.3 [REDACTED] Disputes over Alleged Noncompliance. **If one Party disputes the other Party's assertion of non-compliance, that Party shall notify the other Party in writing of the basis for its assertion of compliance. If the receiving Party fails to provide the other Party with notice that appropriate corrective measures have been taken within a reasonable time or provide the other Party with proof sufficient to persuade the other Party that it erred in asserting that the non-compliance, the requesting Party shall proceed pursuant to the dispute resolution provisions set forth in the General Terms and Conditions. In such instance, the Parties cooperatively shall seek expedited resolution of the dispute. All such information obtained through the process set forth in this Section 2.5.5 shall be deemed Information covered by the Proprietary and Confidential Information Section in the General Terms and Conditions of this Agreement.**

[BellSouth Version] Disputes over Alleged Noncompliance. In its written notice to the other Party the alleging Party will state that **additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if such use is not corrected or ceased by the fifth (5th) calendar day following the date of the notice. In addition, the alleging Party may, at the same time,**

**provide written notice to the person designated by the other Party to receive notices of noncompliance that the alleging Party may terminate the provision of access to ordering systems to the other Party and may discontinue the provisioning of existing services if such use is not corrected or ceased by the tenth (10th) calendar day following the date of the initial notice. If the other Party disagrees with the alleging Party's allegations of unauthorized use, the other Party shall proceed pursuant to the dispute resolution provisions set forth in the General Terms and Conditions. All such information obtained through the process set forth in this Section 2.5.5 shall be deemed Information covered by the Proprietary and Confidential Information Section in the General Terms and Conditions of this Agreement.**

*Issue No. 6-4 [Section 2.6]: Should BellSouth be allowed to assess manual service order charges on CLEC orders for which BellSouth does not provide an electronic ordering option?*

2.6

[REDACTED] Service Ordering and Provisioning. BellSouth will provide the capability to place orders electronically and/or manually. <<customer\_short\_name>> can determine if orders can be placed electronically for a certain product by reviewing the LOH found on BellSouth's web site located at <http://interconnection.bellsouth.com/guides/html/leo.html>. Electronic ordering will be made available via a single interface for ordering and pre-ordering or the integration of a pre-ordering and ordering interface. <<customer\_short\_name>> may integrate the EDI interface with the EDI pre-ordering interface or the TAG ordering interface with the TAG pre-ordering interface. In addition, BellSouth will provide integrated pre-ordering and ordering capability through the LENS interface for non-complex and certain complex resale service requests and certain network element requests. Facsimile and e-mail shall not be considered electronic interfaces. If at any time such interfaces are not available to make placement of an electronic local service request (LSR) possible, <<customer\_short\_name>> shall use the manual LSR process for the ordering of all services and network elements and any combination thereof. Such manual LSRs must be submitted via facsimile except when pre-arranged with BellSouth to mail manual LSRs of over one hundred (100) pages. **In such cases**, <<customer\_short\_name>> will be assessed the lower electronically submitted OSS rate. BellSouth will make available the CLEC OSS ordering interface for the purpose of exchanging order information, including CLEC Service Order Tracking System (CSOTS) order status and completion notification, for non-complex and certain resale requests, certain network elements and network element combinations.

[BellSouth Version] Service Ordering and Provisioning. BellSouth will provide the capability to place orders electronically and/or manually. <<customer\_short\_name>> can determine if orders can be placed electronically for a certain product by reviewing the LOH found on BellSouth's web site located at <http://interconnection.bellsouth.com/guides/html/leo.html>. Electronic ordering will be made available via a single interface for ordering and pre-ordering or the integration of a pre-ordering and ordering interface. <<customer\_short\_name>> may integrate the EDI interface with the EDI pre-ordering interface or the TAG ordering interface with the TAG pre-ordering interface. In addition, BellSouth will provide integrated pre-ordering and ordering capability through the LENS interface for non-complex and certain complex resale service requests and certain network element requests. Facsimile and e-mail shall not be considered electronic interfaces. If at any time such interfaces are not available to make placement of an electronic local service request (LSR) possible, <<customer\_short\_name>> shall use the manual LSR process for the ordering of all services and network elements and any combination thereof. Such manual LSRs must be submitted via

facsimile except when pre-arranged with BellSouth to mail manual LSRs of over one hundred (100) pages. **In the case of outages of BellSouth's OSS interfaces, <<customer\_short\_name>> will be assessed the lower electronically submitted OSS rate if <<customer\_short\_name>> must submit LSRs manually during periods of systems outages by complying with the rules specified in the LOH located at <http://interconnection.bellsouth.com/guides/html/leo.html>.** BellSouth will make available the CLEC OSS ordering interface for the purpose of exchanging order information, including CLEC Service Order Tracking System (CSOTS) order status and completion notification, for non-complex and certain resale requests, certain network elements and network element combinations.

*Issue No. 6-5 [Section 2.6.5]: What rate should apply for Service Data Advancement (a/k/a service expedites)?*

2.6.5 [REDACTED] Service Date Advancement Charges (a.k.a. Expedites). For Service Date Advancement requests by <<customer\_short\_name>>, Service Date Advancement charges will apply for intervals less than the standard interval as outlined in Section 8 of the LOH, located at <http://interconnection.bellsouth.com/guides/html/leo.html>. The charges shall be as set-forth in Exhibit A of Attachment 2 of this Agreement and will apply only where Service Date Advancement has been specifically requested by the requesting Party, and the element or service provided by the other Party meets all technical specifications and is provisioned to meet those technical specifications. If <<customer\_short\_name>> accepts service on the plant test date (PTD) normal recurring charges will apply from that date but Service Date Advancement charges will only apply if <<customer\_short\_name>> previously requested the order to be expedited and the expedited DD is the same as the original PTD.

*Issue No. 6-6 [Section 2.6.25]: Should CLEC be required to deliver a FOC to BellSouth for purposes of porting a number within a firm interval?*

2.6.25 [REDACTED] **Subject to the same exclusions that apply to BellSouth's delivery of a FOC, <<customer\_short\_name>> shall use best efforts to return a FOC to BellSouth, for purposes of porting a number, within an average of five (5) business days, for noncomplex orders, after <<customer\_short\_name>>'s receipt from BellSouth of a valid LSR.**

**[BellSouth Version] <<customer\_short\_name>> shall return a FOC to BellSouth within thirty-six (36) hours, exclusive of Saturdays, Sundays and Holidays, after <<customer\_short\_name>>'s receipt from BellSouth of a valid LSR.**

*Issue No. 6-7 [Section 2.6.26]: Should CLEC be required to provide Reject Responses to BellSouth within a firm interval?*

2.6.26 [REDACTED] Subject to the same exclusions that apply to BellSouth's delivering a Reject Response, <<customer\_short\_name>> shall use best efforts to provide a Reject Response to BellSouth within an average of forty-eight (48) hours, for noncomplex orders and exclusive of Saturdays, Sundays and Holidays, after BellSouth's submission of an LSR which is incomplete or incorrectly formatted.

[BellSouth Version] <<customer\_short\_name>> shall provide a Reject Response to BellSouth within twenty-four (24) hours, exclusive of Saturdays, Sundays and Holidays, after BellSouth's submission of an LSR which is incomplete or incorrectly formatted.

*Issue No. 6-8 [Section 2.7.10.4]: Should BellSouth be required to provide performance and maintenance history for circuits with chronic problems?*

2.7.10.4 [REDACTED] Upon request from <<customer\_short\_name>>, BellSouth will disclose all available performance and maintenance history regarding the network element, service or facility subject to the Chronic Ticket.

[BellSouth Version] No Section.

*Issue No. 6-9 [Section 2.9.1]: Should charges for substantially similar OSS functions performed by the parties be reciprocal?*

2.9.1

**[REDACTED]** Rates. **The Parties shall bill each other for providing OSS functionalities at the rates set forth in Exhibit A of Attachment 2 of this Agreement. <<customer\_short\_name>> shall bill BellSouth a single manual OSS charge (SOMAN) per local service request.**

**[BellSouth Version]** Rates. **BellSouth shall bill <<customer\_short\_name>> OSS rates pursuant to the terms, conditions and rates for OSS as set forth in Exhibit A of Attachment 2 of this Agreement. <<customer\_short\_name>> shall bill BellSouth a single manual OSS charge (SOMAN) per local service request associated with the 'port back' of a telephone number to BellSouth as set forth in Exhibit A of Attachment 2 of this Agreement, pursuant to the terms and conditions under which BellSouth bills <<customer\_short\_name>> for OSS, including FOC turnaround times the same as BellSouth's, due date intervals the same as BellSouth's for port out of numbers only and CSRs handled under the same terms and conditions that BellSouth is held to in providing the CSRs to <<customer\_short\_name>>. Should BellSouth desire to establish a mechanized interface with <<customer\_short\_name>> in support of the 'port back' local service requests, BellSouth shall initiate a New Business Request to <<customer\_short\_name>>.**

*Issue No. 6-10 [Section 3.1.1]: (A) Can BellSouth make the porting of an End User to the CLEC contingent on either the CLEC having an operating, billing and/or collection arrangement with any third party carrier, including BellSouth Long Distance or the End User changing its PIC?*

*(B) If not, should BellSouth be subject to liquidated damages for imposing such conditions?*

3.1.1

**[REDACTED]** In no event shall BellSouth refuse to permit, or otherwise refuse to comply with its obligations hereunder with respect to, the transition to <<customer\_short\_name>> of any End User by conditioning such permission or compliance upon (a) <<customer\_short\_name>>'s entry into any billing and/or collection arrangement, operational understanding or relationship with one or more of BellSouth's Affiliates (including, without limitation, BellSouth Long Distance), or any third party carrier; or (b) any applicable End User's or <<customer\_short\_name>>'s entry into any other agreement, arrangement, understanding or relationship with BellSouth or any of its Affiliates, or a third party carrier other than as expressly contemplated by this Agreement. In the event that BellSouth shall withhold or condition its permission or compliance with respect to any End User-transition matter in violation of the foregoing sentence, <<customer\_short\_name>> shall automatically and immediately be entitled to assess against and collect from BellSouth, in addition to and without prejudice to or limitation upon any other rights or remedies <<customer\_short\_name>> and/or any of its End Users may have under this Agreement, under any other agreement, instrument or document related hereto or contemplated hereby or otherwise at law or in equity against BellSouth and/or its Affiliates, or a third party carrier in respect of any such matters and/or any breach or violation of any other provision(s) of this Agreement occurring in connection therewith, an amount equal to \$1,000 per occurrence for each day. Each of BellSouth and <<customer\_short\_name>> acknowledge and agree that, insofar as it would be impossible or commercially impracticable to ascertain and fix the actual amount of damages as would be sustained by <<customer\_short\_name>> as a result of any breach by BellSouth of the foregoing provisions of this Section 3.1.1, the liquidated damage amount specified in the foregoing sentence is agreed to as a reasonable approximation of the damages likely to be sustained by <<customer\_short\_name>>, and not as a penalty, upon the occurrence and during the continuance of any such breach.

**[BellSouth Version]** No Section.

*Issue No. 6-11 [Sections 3.1.2, 3.1.2.1]: (A) Should the mass migration of customer service arrangements resulting from mergers, acquisitions and asset transfers be accomplished by the submission of an electronic LSR or spreadsheet?*

*(B) If so, what rates should apply?*

*(C) What should be the interval for such mass migrations of services?*

3.1.2 [REDACTED] Mass Migration of Customers. BellSouth will cooperate with <<customer\_short\_name>> to accomplish mass migration of customers expeditiously and on terms that are reasonable and non-discriminatory. **Mass migration of customer service arrangements (e.g., UNEs, Combinations, resale) will be accomplished pursuant to submission of electronic LSR or, if mutually agreed to by the Parties, by submission of a spreadsheet in a mutually agreed-upon format. Until such time as an electronic LSR process is available, a spreadsheet containing all relevant information shall be used. An electronic OSS charge shall be assessed per service arrangement migrated. This Section shall not govern bulk migration from one service arrangement to another for the same carrier or migration of a collocation space from one carrier to another.**

[BellSouth Version] Mass Migration of Customers. BellSouth will cooperate with <<customer\_short\_name>> to accomplish mass migration of customers expeditiously and on terms that are reasonable and non-discriminatory.

3.1.2.1 [REDACTED] BellSouth shall only charge <<customer\_short\_name>> a TELRIC-based records change charge for the migration of customers for which no physical re-termination of circuits must be performed. The TELRIC-based records change charge is as set forth in Exhibit A of Attachment 2 of this Agreement. Such migrations shall be completed within ten (10) calendar days of an LSR or spreadsheet submission. The TELRIC-based charge for physical re-termination of circuits (including appropriate record changes (a single charge will apply)) is as set forth in Exhibit A of Attachment 2 of this Agreement. Such physical re-terminations shall be completed within ten (10) calendar days of electronic LSR or spreadsheet submission.

[BellSouth Version] No Section.

## ATTACHMENT 7

### BILLING

*Issue No. 7-1 [Section 1.1.3]: Should there be a time limit on the parties' ability to engage in backbilling?*

1.1.3

[REDACTED] The Bill Date, as defined herein, must be present on each bill transmitted by one Party to the other Party and must be a valid calendar date. **Bills should not be rendered for any charges which are incurred under this agreement when more than ninety (90) days have passed since the bill date on which those charges ordinarily would have been billed. Billed amounts for services rendered more than one (1) billing period prior to the Bill Date shall be invalid unless the billing Party identifies such billing as "back-billing" on a line-item basis. However, both Parties recognize that situations exist which would necessitate billing beyond ninety (90) days and up to a limit of six (6) months after the date upon which the bill ordinarily would have been issued. These exceptions are:**

**Charges connected with jointly provided services whereby meet point billing guidelines require either party to rely on records provided by a third party and such records have not been provided in a timely manner;**

**Charges incorrectly billed due to erroneous information supplied by the non-billing Party.**

[BellSouth Version] The Bill Date, as defined herein, must be present on each bill transmitted by one Party to the other Party and must be a valid calendar date. **Charges incurred under this Agreement are subject to applicable Commission rules and state statutes of limitations.**

*Issue No. 7-2 [Section 1.2.2]: (A) What charges, if any, should be imposed for records changes made by the Parties to reflect changes in corporate names or other LEC identifiers such as OCN, CC, CIC and ACNA? (B) What intervals should apply to such changes?*

1.2.2

[REDACTED] OCN, CC, CIC, ACNA and BAN Changes. In the event that either Party makes any corporate name change (including addition or deletion of a d/b/a), or a change in OCN, CC, CIC, ACNA or any other LEC identifier (collectively, a “LEC Change”), the changing Party shall submit written notice to the other Party. A Party may make one (1) LEC Change per state in any twelve (12) month period without charge by the other Party for updating its databases, systems, and records solely to reflect such LEC Change. In the event of any other LEC Change, such charge shall be at the cost-based, TELRIC compliant rate set forth in Exhibit A to this Attachment 7. LEC Changes shall be accomplished in thirty (30) calendar days and shall result in no delay or suspension of ordering or provisioning of any element or service provided pursuant to this Agreement, or access to any pre-order, order or maintenance interfaces made available by BellSouth pursuant to Attachment 6 of this Agreement. At the request of a Party, the other Party shall process and implement all system and record changes necessary to effectuate a new OCN/CC within thirty (30) calendar days. At the request of a Party, the other Party shall establish a new BAN within ten (10) calendar days.

[BellSouth Version] OCN, CC, CIC, ACNA and BAN Changes. If <<customer\_short\_name>> needs to change its ACNA(s)/BAN(s)/CC(s)/CIC(s)/OCN(s) under which it operates when <<customer\_short\_name>> has already been conducting business utilizing that ACNA(s)/BAN(s)/CC(s)/CIC(s)/OCN(s), <<customer\_short\_name>> shall bear all costs incurred by BellSouth to convert <<customer\_short\_name>> to the new ACNA(s)/BAN(s)/CC(s)/CIC(s)/OCN(s). ACNA/BAN/CC/CIC/OCN conversion charges include the time required to make system updates to all of <<customer\_short\_name>>'s End User customer records and will be handled by the BFR/NBR process.

*Issue No. 7-3 [Section 1.4]: When should payment of charges for service be due?*

1.4 [REDACTED] Payment Due. Payment of charges for services rendered will be due **thirty (30) calendar days from receipt or website posting of a complete and fully readable bill or within thirty (30) calendar days from receipt or website posting of a corrected or retransmitted bill in those cases where correction or retransmission is necessary for processing** and is payable in immediately available funds. Payment is considered to have been made when received by the billing Party.

[BellSouth Version] Payment Due. Payment for services will be due **on or before the next bill date (Payment Due Date)** and is payable in immediately available funds. Payment is considered to have been made when received by the billing Party.

*Issue No. 7-4 [Section 1.6]: (A) What interest rate should apply for late payments? (B) What fee should be assessed for returned checks?*

1.6 [REDACTED] Late Payment. Subject to the provisions of Section 1.7 below, if any portion of the payment is received by BellSouth after the payment due date as set forth in Section 1.2 above, or if any portion of the payment is received by the billing Party in funds that are not immediately available to the billing Party, then a late payment charge shall be due to the billing Party. The late payment charge shall be in an amount equal to not received by the payment due date multiplied by a late factor and will be applied on a per /bill basis. The late factor shall be **one (1) percent per month**. In addition to any applicable late payment charges, <<customer\_short\_name>> may be **assessed a \$20** fee for all returned checks.

[BellSouth Version] Late Payment. Subject to the provisions of Section 1.7 below, if any portion of the payment is received by BellSouth after the payment due date as set forth in Section 1.2 above, or if any portion of the payment is received by BellSouth in funds that are not immediately available to BellSouth, then a late payment charge shall be due to BellSouth. The late payment charge shall be the portion of the payment not received by the payment due date multiplied by a late factor and will be applied on a per bill basis. The late factor shall be **as set forth in Section A2 of the GSST, Section B2 of the Private Line Service Tariff or Section E2 of the Interstate Access Tariff, as appropriate**. In addition to any applicable late payment charges, <customer\_short\_name> may be **charged** a fee for all returned checks **as set forth in Section A2 of the GSST or pursuant to the applicable state law**.

*Issue No. 7-5 [Section 1.7.1]: What recourse should a Party have if it believes the other Party is engaging in prohibited, unlawful or improper use of its facilities or services, abuse of the facilities or noncompliance with the Agreement or applicable tariffs?*

1.7.1

[REDACTED] Each Party reserves the right to suspend or terminate service in the event of prohibited, unlawful or, in the case of resold services, improper use of the other Party's facilities or service (e.g. making calls in a manner reasonably to be expected to frighten, abuse, torment or harass another, etc.) as described under the providing Party's tariff, abuse of the other Party's facilities, or any other violation or noncompliance with this Agreement and/or each Party's tariffs where applicable. Upon detection of such use, the detecting Party will provide written notice to the other Party that additional applications for **such** service may be refused, that any pending orders for **such** service may not be completed, and/or that access to ordering systems **for such service** may be suspended if such use is not corrected or ceased by the fifteenth (15th) calendar day following the date of the notice. In addition, the detecting Party may, at the same time, provide written notice to the person designated by the other Party to receive notices of noncompliance that the detecting Party may terminate the provision of **such** existing services to the other Party if such use is not corrected or ceased by the thirtieth (30th) calendar day following the date of the initial notice. **Notwithstanding the foregoing, if the Party that receives the notice disagrees with the issuing Party's allegations of prohibited, unlawful or improper use, it shall provide written notice to the issuing Party stating the reasons therefor. Upon delivery of such notice of dispute, the foregoing provisions regarding suspension and termination will be stayed, and the Parties shall work in good faith to resolve any dispute over allegations of prohibited, unlawful or improper use. If the Parties are unable to resolve such dispute amicably, the issuing Party shall proceed, if at all, pursuant to the dispute resolution provisions set forth in the General Terms and Conditions.**

[BellSouth Version] Each Party reserves the right to suspend or terminate service in the event of prohibited, unlawful or, in the case of resold services, improper use of the other Party's facilities or service (e.g. making calls in a manner reasonably to be expected to frighten, abuse, torment or harass another, etc.) as described under the providing Party's tariff, abuse of the other Party's facilities, or any other violation or noncompliance with this Agreement and/or each Party's tariffs where applicable. Upon detection of such use, the detecting Party will provide written notice to the other Party that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if such use is not corrected or ceased by the fifteenth (15th) calendar day following the date of the notice. In addition, the detecting Party may, at the same time, provide written notice to the person designated by the other Party to receive notices of noncompliance that the

detecting Party may terminate the provision of **all** existing services to the other Party if such use is not corrected or ceased by the thirtieth (30th) calendar day following the date of the initial notice.

*Issue No. 7-6 [Section 1.7.2]: Should CLEC be required to calculate and pay past due amounts in addition to those specified in BellSouth's notice of suspension or termination for nonpayment in order to avoid suspension or termination?*

1.7.2

**[REDACTED]** Each Party reserves the right to suspend or terminate service for nonpayment. If payment of amounts not subject to a billing dispute, as described in Section 2, is not received by the **Due Date, the billing Party may provide written notice to the other Party** that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment of such amounts, **as indicated on the notice in dollars and cents**, is not received by the fifteenth (15th) calendar day following the date of the notice. In addition, **the billing Party** may, at the same time, provide written notice that **the billing Party** may discontinue the provision of existing services to **the other Party** if payment of such amounts, **as indicated on the notice (in dollars and cents)**, is not received by the thirtieth (30th) calendar day following the date of the Initial Notice.

**[BellSouth Version]** BellSouth reserves the right to suspend or terminate service for nonpayment. If payment of amounts not subject to a billing dispute, as described in Section 2, is not received by the **bill date in the month after the original bill date, BellSouth** will provide written notice to **<<customer\_short\_name>>** that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment of such amounts, **and all other amounts not in dispute that become past due before refusal, incompleteness or suspension**, is not received by the fifteenth (15th) calendar day following the date of the notice. In addition, **BellSouth** may, at the same time, provide written notice to the person designated by **<<customer\_short\_name>>** to receive notices of noncompliance that **BellSouth** may discontinue the provision of existing services to **<<customer\_short\_name>>** if payment of such amounts, **and all other amounts not in dispute that become past due before discontinuance**, is not received by the thirtieth (30th) calendar day following the date of the initial notice.

*Issue No. 7-7 [Section 1.8.3]: How many months of billing should be used to determine the maximum amount of the deposit?*

1.8.3 [REDACTED] The amount of the security shall not exceed two month's estimated billing for new CLECs or one and one-half month's actual billing under this Agreement for existing CLECs (based on average monthly billings for the most recent six (6) month period). Interest shall accrue per the appropriate BellSouth tariff on cash deposits.

[BellSouth Version] The amount of the security shall not exceed two (2) month's **estimated billing for new CLECs or** actual billing for existing CLECs. Interest shall accrue per the appropriate BellSouth tariff on cash deposits.

*Issue No. 7-8 [Section 1.8.3.1]: Should the amount of the deposit BellSouth requires from CLEC be reduced by past due amounts owed by BellSouth to CLEC?*

1.8.3.1 [REDACTED] **The amount of security due from an existing CLEC shall be reduced by amounts due <<customer\_short\_name>> by BellSouth aged over thirty (30) calendar days. BellSouth may request additional security in an amount equal to such reduction once BellSouth demonstrates a good payment history, as defined in Section 1.8.5.1, and subject to the standard set forth in Section 1.8.5.**

[BellSouth Version]. No Section.

*Issue No. 7-9 [Section 1.8.6]: Should BellSouth be entitled to terminate service to CLEC pursuant to the process for termination due to non-payment if CLEC refuses to remit any deposit required by BellSouth within 30 calendar days?*

1.8.6 [REDACTED] Subject to Section 1.8.7 following, in the event <<customer\_short\_name>> fails to remit to BellSouth any deposit requested pursuant to this Section **and either agreed to by <<customer\_short\_name>> or as ordered by the Commission** within thirty (30) calendar days of such **agreement or order**, service to <<customer\_short\_name>> may be terminated in accordance with the terms of Section 1.7 and subtending sections of this Attachment, and any security deposits will be applied to <<customer\_short\_name>>'s account(s).

[BellSouth Version]. Subject to Section 1.8.7 following, in the event <<customer\_short\_name>> fails to remit to BellSouth any deposit requested pursuant to this Section within thirty (30) calendar days of <<customer\_short\_name>>'s receipt of such request, service to <<customer\_short\_name>> may be terminated in accordance with the terms of Section 1.7 and subtending sections of this Attachment, and any security deposits will be applied to <<customer\_short\_name>>'s account(s).

*Issue No. 7-10 [Section 1.8.7]: What recourse should be available to either Party when the Parties are unable to agree on the need for or amount of a reasonable deposit?*

1.8.7 [REDACTED] The Parties will work together to determine the need for or amount of a reasonable deposit. **If the Parties are unable to agree, either Party** may file a petition for resolution of the dispute and both parties shall cooperatively seek expedited resolution of such dispute.

[BellSouth Version]. The Parties will work together to determine the need for or amount of a reasonable deposit. **If <<customer\_short\_name>> does not agree with the amount or need for a deposit requested by BellSouth,** <<customer\_short\_name>> may file a petition with the Commissions for resolution of the dispute and both Parties shall cooperatively seek expedited resolution of such dispute. **BellSouth shall not terminate service during the pendency of such a proceeding provided that <<customer\_short\_name>> posts a payment bond for the amount of the requested deposit during the pendency of the proceeding.**

*Issue No. 7-11 [Section 1.8.9]: Under what conditions may BellSouth seek additional security deposit from CLEC?*

1.8.9 [REDACTED] Subject to a standard of commercial reasonableness, if a material change in the circumstances of <<customer\_short\_name>> so warrants and/or gross monthly billing has increased **more than 25%** beyond the level most recently used to determine the level of security deposit, BellSouth reserves the right to request additional security subject to the criteria set forth herein this Section 1.8. **Notwithstanding the foregoing, BellSouth shall not make such additional requests based solely on increased billing more frequently than once in any six (6) month period.**

[BellSouth Version] Subject to a standard of commercial reasonableness, if a material change in the circumstances of <<customer\_short\_name>> so warrants and/or gross monthly billing has increased beyond the level most recently used to determine the level of security deposit, BellSouth reserves the right to request additional security subject to the criteria set forth in this Section 1.8.

*Issue No. 7-12 [Section 1.9.1]: To whom should BellSouth be required to send notice of suspension for additional applications for service, pending applications for service and access to BellSouth's ordering systems?*

1.9.1 [REDACTED] **Notices sent pursuant to this Attachment 7** also shall be sent via certified mail to the individual(s) listed in the Notices provision of the General Terms and Conditions of this Agreement.

[BellSouth Version] BellSouth's **Initial Notice to <<customer\_short\_name>> that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment of such amounts, and all other amounts not in dispute that become past due before refusal, incompleteness or suspension, is not received by the fifteenth (15th ) calendar day following the date of the notice is system generated and will only be supplied to <<customer\_short\_name>>'s billing contact. Notices, not system generated, of security deposits and suspension or termination of services also shall be sent via certified mail to the individual(s) listed in the Notices provision of the General Terms and Conditions of this Agreement. Such notices must be sent in accordance with the time frames set forth in Section 1.7.**

## ATTACHMENT 11

### BONA FIDE REQUEST/NEW BUSINESS REQUEST (BFR/NBR)

*Issue No. 11-1 [Sections 1.5, 1.8.1, 1.9, 1.10]: (A) Should BellSouth be permitted to charge CLEC the full development costs associated with a BFR? (B) If so, how should these costs be recovered?*

1.5 [REDACTED] For any new or modified network element, interconnection option or service option not ordered by the FCC or Commission, if the preliminary analysis states that BellSouth will offer the new or modified network element, interconnection option or service option, the preliminary analysis will include an estimate of the **nonrecurring and recurring rates of the network element, interconnection option or service option** and the date the request can be met. If the preliminary analysis states that BellSouth will not offer the new or modified network element, interconnection option or service option, BellSouth will provide an explanation of why the request is not technically feasible, does not qualify as a BFR for the new or modified network element, interconnection option or service option, should actually be submitted as a NBR or is otherwise not required to be provided under the Act. If BellSouth cannot provide the network element, interconnection option or service option by the requested date, BellSouth shall provide an alternative proposed date together with a detailed explanation as to why BellSouth is not able to meet <<customer\_short\_name>>'s requested date.

[BellSouth Version] For any new or modified network element, interconnection option or service option not ordered by the FCC or Commission, if the preliminary analysis states that BellSouth will offer the new or modified network element, interconnection option or service option, the preliminary analysis will include an estimate of the **costs of utilizing existing resources, both personnel and systems, in the development including, but not limited to, request parameters analysis, determination of impacted BellSouth departments, determination of required resources, project management resources, etc. (Development Rate) including a general breakdown of such costs associated with the network element, interconnection option or service option** and the date the request can be met. If the preliminary analysis states that BellSouth will not offer the new or modified network element, interconnection option or service option, BellSouth will provide an explanation of why the request is not technically feasible, does not qualify as a BFR for the new or modified network element, interconnection option or service option, should actually be submitted as a NBR or is otherwise not required to be provided under the Act. If BellSouth cannot provide the network element, interconnection option or service option by the requested date, BellSouth shall provide an alternative proposed date together with a detailed explanation as to why BellSouth is not able to meet <<customer\_short\_name>>'s requested date.

1.8.1 [ <<customer\_short\_name>> ] Acceptance of the preliminary analysis must be in writing and accompanied by the estimated **nonrecurring rate** for the new or modified network element, interconnection option or service option quoted in the preliminary analysis.

[BellSouth Version] Acceptance of the preliminary analysis must be in writing and accompanied by the estimated **Development Rate** for the new or modified network element, interconnection option or service option quoted in the preliminary analysis.

1.9 [ ] Notwithstanding any other provision of this Agreement, BellSouth shall propose a firm price quote, including the firm nonrecurring rate and the firm recurring rate, and a detailed implementation plan within ten (10) business days of receipt of <<customer\_short\_name>>'s accurate BFR application for a network element, interconnection option or service option that is operational at the time of the request; thirty (30) business days of receipt of <<customer\_short\_name>>'s accurate BFR application for a new or modified network element, interconnection option or service option ordered by the FCC or Commission; and within sixty (60) business days of receipt of <<customer\_short\_name>>'s accurate BFR application for a new or modified network element, interconnection option or service option not ordered by the FCC or Commission or not operational at the time of the request. Such firm price quote shall not exceed the estimate provided with the preliminary analysis by more than 25%.

[BellSouth Version] Notwithstanding any other provision of this Agreement, BellSouth shall propose a firm price quote, including the **firm Development Rate**, the firm nonrecurring rate and the firm recurring rate, and a detailed implementation plan within ten (10) business days of receipt of <<customer\_short\_name>>'s accurate BFR application for a network element, interconnection option or service option that is operational at the time of the request; thirty (30) business days of receipt of <<customer\_short\_name>>'s accurate BFR application for a new or modified network element, interconnection option or service option ordered by the FCC or Commission; and within sixty (60) business days of receipt of <<customer\_short\_name>>'s accurate BFR application for a new or modified network element, interconnection option or service option not ordered by the FCC or Commission or not operational at the time of the request. The firm nonrecurring rate will not include any of the Development Rate or the complex request evaluation fee, if required, in the calculation of this rate. Such firm price quote shall not exceed the estimate provided with the preliminary analysis by more than 25%.

1.10 [ ] <<customer\_short\_name>> shall have thirty (30) business days from receipt of the firm price quote to accept or deny the firm price quote and submit any additional nonrecurring rate quoted in the firm price quote. If the firm price quote is less than the preliminary analysis' estimated nonrecurring rate for

the new or modified network element, interconnection option or service option not ordered by the FCC or Commission, BellSouth will credit <<customer\_short\_name>>'s account for the difference.

[BellSouth Version] <<customer\_short\_name>> shall have thirty (30) business days from receipt of the firm price quote to accept or deny the firm price quote and submit any additional **Development** or nonrecurring rates quoted in the firm price quote. If the firm price quote is less than the preliminary analysis' estimated **Development Rate** and/or nonrecurring rate for the new or modified network element, interconnection option or service option not ordered by the FCC or Commission, BellSouth will credit <<customer\_short\_name>>'s account for the difference.